96-116

COASTAL ZONE MANAGEMENT ACT AMENDMENTS OF 1980

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

NINETY-SIXTH CONGRESS

SECOND SESSION

ON

S. 2622

TO IMPROVE COASTAL ZONE MANAGEMENT IN THE UNITED STATES, AND FOR OTHER PURPOSES

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COASTAL ZONE MANAGEMENT ACT AMENDMENTS OF 1980

WEDNESDAY, APRIL 30, 1980

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C.

The committee met at 10:15 a.m. in room 457, Russell Senate Office Building, Hon. Ernest F. Hollings presiding.

OPENING STATEMENT BY SENATOR HOLLINGS

Senator HOLLINGS. We are starting a little late this morning. We had votes on the floor.

We are here this morning to consider the reauthorization of the Coastal Zone Management Act, specifically section 306, which provides for implementation of the State programs.

Last year the committee reviewed the progress that had been made since 1974 when we first had funding, and concluded that planning grants were no longer necessary. The authorization for section 305 was permitted to lapse.

Now we are truly embarked on implementing State programs. Nineteen States are approved, covering about 68 percent of our shoreline. Several more will be approved this year, and we find our country at different crossroads than when the act was passed.

We are in the midst of difficult economic times. The budget has to be balanced as a step toward controlling inflation, which is putting people out of work, closing down our industries, and affecting the pocket of every consumer.

And in light of that, we must search today for where to go with this program which has achieved so much to date. How long, realistically, will it take us to institutionalize the State coastal zone management (CZM) structures? What funding levels will be necessary? And how can we better coordinate the Federal agencies on the coast so that everyone isn't working at cross purposes? It costs the U.S. Treasury and the private citizen money which we cannot afford to waste.

Most of the original act has served well, but times change and the needs of the Nation with them. Some amendments may be desirable.

For example, the Federal Government subsidizes development indiscriminately in areas where heavy erosion, wind and water damage, hurricanes, salt water intrusion and flooding are common. Then disaster strikes, lives and property are endangered, and disaster relief is required. Our next step is to resubsidize development—and there is usually more of it—and go through the cycle once again. Much of this can be avoided.

Better predictability can be achieved. This has been a criticism of both industry and conservationists. Predictability in siting facilities, improved protection for fishery habitat, productive marshes, and wildlife areas, identification of sites for port and municipal growth—a process called special area management which is being tested, has great potential for pulling all these pieces together in areas with special natural resource and economic growth requirements.

We must ask whether we can afford to provide funds to acquire fee simple access routes for beaches and recreation areas; or if we must not search for more innovative ways of providing access.

When energy impact assistance provisions were passed in 1976, the emphasis was on Outer Continental Shelf (OCS) development. Now that emphasis has not only intensified, but has been joined by new policies to modify our utilities to burn coal.

Coal transshipment impacts are having substantial effect in the Great Lake States, the gulf, New England, and the mid-Atlantic areas, and we currently face a rescission proposal from the President for a portion of the Coastal Energy Impact Funds.

We have more experience in coastal zone management than when this radical idea was first signed into law. There are ways we can improve what we are doing, streamline the process, detail the policies, provide for conflict resolution between protection and development, and do so in a way that yields richer benefits in our efforts. And, of course, that is why we are here today, to discuss these issues.

[The bill follows:]

II

96TH CONGRESS
2D SESSION

S. 2622

To improve coastal zone management in the United States, and for other purposes.

IN THE SENATE OF REPRESENTATIVES

APRIL 29 (legislative day, JANUARY 3), 1980

Mr. HOLLINGS (for Mr. CANNON) (by request) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To improve coastal zone management in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Coastal Zone Management Act Amendments of 1980".

FINDINGS

SECTION 1. Section 302 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451) is amended—

(1) by inserting immediately after subsection (e) the following:

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"(f) New and expanding demands for food, energy, minerals, defense needs, recreation, waste disposal, transportation, and industrial activities in the Great Lakes, territorial sea, and Outer Continental Shelf are placing stress on these areas and are creating the need for resolution of serious conflicts among important and competing uses and values in coastal and ocean waters."; and

(2) by relettering subsections (f), (g), (h), and (i) as subsections (g), (h), (i), and (j), respectively.

DECLARATION OF POLICY

SEC. 2. Section 303 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1452) is amended by striking out from subsection (b) "ecological, cultural, historic, and esthetic values as well as to needs for economic development" and by inserting in lieu thereof the following: "the need for (i) protection of significant natural systems such as wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, fish, and wildlife, (ii) management of coastal development to minimize loss of life and property caused by improper development in flood-prone, storm-surge and erosion-prone areas, and areas of subsidence and saltwater intrusion, (iii) priority consideration for coastal-dependent uses and orderly processes for siting major facilities related to national defense, energy, fisheries development, recreation, ports and transportation, (iv) public access to the coast for recreation purposes,

(v) assisting in the redevelopment of deteriorating urban waterfronts and ports, and sensitive preservation and restoration of historic, cultural, and aesthetic coastal features, (vi) coordinated and simplified procedures to ensure expedited governmental decisionmaking for the management of coastal resources, (vii) continuing consultation and coordination with and adequate consideration of the views of affected Federal agencies, and (viii) timely and effective opportunities for public participation in coastal management decisionmaking,".

ADMINISTRATIVE GRANTS

SEC. 3. Section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) is amended—

(1) by inserting "(i)" within subsection (a) immediately before "for not more than";

(2) by inserting within subsection (a) after "such State's management program," the following: "for a five-year period commencing in fiscal year 1978 or the fiscal year of management program approval, whichever is later, and (ii) for decreasing per centums of the costs of administering such State's management program for the years following the five-year period described in subparagraph (i), with the Federal share to reach a level of 33⅓ per centum or less of the costs of program administration three years after the last year of the five-year period,";

(3) by striking out within subsection (b) "*Provided*, That no annual grant made under this section shall be in excess of $2,000,000 for fiscal year 1975, in excess of $2,500,000 for fiscal year 1976, nor in excess of $3,000,000 for fiscal year 1977: *Provided further*, That no" and inserting in lieu thereof the following: "The Secretary shall require States that have completed one or more years of program implementation to devote increasing per centums of their implementation grants each year to activities leading to significant improvements to meet the coastal management needs identified in section 303(b). No", and

(4) by striking out within subsection (b) ": *And provided further*, That the" and inserting in lieu thereof "The".

REVIEW OF PERFORMANCE

SEC. 4. Section 312 of the Coastal Zone Management Act (16 U.S.C. 1461) is amended to read as follows:

"SEC. 312. (a) The Secretary shall conduct a continuing review of the performance of coastal States with respect to coastal zone management which shall include evaluation findings during each grant period which assess each State's performance in the implementation of its management program; the evaluation for each State shall provide a determination of the extent to which State activities (1) address the coastal

management needs identified in section 303(b), (2) adhere to the provisions of the program approved by the Secretary, and (3) adhere to the terms of any grant or cooperative agreement funded under section 306.

"(b) The Secretary may reduce any financial assistance extended under this title and withdraw any unexpended portion of such assistance if it is determined that the State is failing to achieve significant improvements in meeting the coastal management needs set forth in section 303(b).

"(c) The Secretary may withdraw management program approval and any financial assistance extended under this title and withdraw any unexpended portion of such assistance if (1) it is determined that the State is failing to adhere to and is not justified in deviating from (i) the program approved by the Secretary, or (ii) the terms of any grant or cooperative agreement funded under section 306, and (2) the State has been given notice of the proposed termination or withdrawal and given an opportunity to present evidence of adherence or justification for deviating from its program.

"(d) The Secretary shall conduct a periodic review and evaluation of the implementation of the coastal energy impact program provided under section 308.".

ESTUARINE SANCTUARIES AND ISLAND PRESERVATION

SEC. 5. Section 315 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464) is amended—

(1) by striking the words "BEACH ACCESS" from the section heading and inserting in lieu thereof the words "ISLAND PRESERVATION", and

(2) by striking from subsection (2) the following: "access to public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value, and for".

BIENNIAL REPORT

SEC. 6. Section 316 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1465) is amended—

(1) by striking the word "ANNUAL" from the section heading and inserting in lieu thereof the word "BIENNIAL",

(2) by striking the language in paragraph (a) immediately preceding subparagraph (a)(1) and substituting in lieu thereof the following:

"(a) The Secretary shall prepare and submit to the President for transmittal to the Congress on a biennial basis a report summarizing the administration of this title for the preceding two fiscal years. The reports, which shall be transmitted to the Congress not later than April 1 of the year following the biennial period, shall include but not be restricted to";

(3) by striking out within subparagraph (a)(4) the following: "or with respect to which grants have been terminated under this title";

(4) by inserting immediately after subparagraph (a)(4) the following: "(5) a summary of evaluation findings prepared in accordance with subsections (a) and (d) of section 312, and a description of any sanctions imposed pursuant to subsections (b) and (c) of this section;"; and

(5) by renumbering subparagraphs (5), (6), (7), (8), (9), (10), (11), and (12) of subsection (a) as subparagraphs (6), (7), (8), (9), (10), (11), (12), and (13), respectively.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. Section 318 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1467) is amended—

(1) by striking subparagraph (a)(1);

(2) by renumbering subparagraph (a)(2) as subparagraph (a)(1) and amending it to read as follows:

"(1) such sums, not to exceed $50,000,000 for each of the fiscal years ending September 30, 1981, and September 30, 1982, and not to exceed $215,000,000 for the period beginning October 1, 1982, and ending September 30, 1988, as may be nec-

essary for the purpose of providing grants under section 306, to remain available until expended;";

(3) by deleting subparagraph (a)(5);

(4) by deleting subparagraph (a)(6);

(5) by renumbering subparagraph (a)(7) as subparagraph (a)(4) and amending it to read as follows:

"(5) such sums, not to exceed $6,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1985, as may be necessary for grants under section 315(1), to remain available until expended;";

(6) by renumbering subparagraph (a)(8) as subparagraph (a)(5) and amending it to read as follows:

"(6) such sums, not to exceed $10,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1982, as may be necessary for grants under section 315(2), to remain available until expended;";

(7) by renumbering subparagraph (a)(9) as subparagraph (a)(6) and amending it to read as follows:

"(7) such sums, not to exceed $5,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1988, as may be necessary for administrative expenses incident to the administration of this title.";

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(8) by renumbering subparagraphs (a)(3) and (a)(4) as subparagraphs (a)(2) and (a)(3), respectively; and

(9) by striking out within subsection (c) the section number "305.".

Senator HOLLINGS. We have as our first witness the distinguished Congressman from Massachusetts, the Honorable Gerry E. Studds. Congressman Studds is the chairman of our Oceanography Subcommittee of the House Merchant Marine and Fisheries Committee. We welcome you, Congressman Studds, and will be delighted to hear from you at this time.

STATEMENT OF HON. GERRY E. STUDDS, U.S. REPRESENTATIVE FROM MASSACHUSETTS

Mr. STUDDS. Thank you, Mr. Chairman. It's a pleasure to be here.

I must say that as the principal sponsor and author of the 1972 act, I want to commend you. I must tell you in all candor that I began our extensive oversight into this act last year with some hesitancy regarding the act.

When I first sat down to read it in its entirety, which is always a sobering experience with any Federal statute, as you know, it led me to wonder about parts of it which struck me as fairly ambiguous. I wondered in turn whether or not a proper balance had been struck.

I will say to you, having held extensive oversight hearings over the course of the last 6 months, traveling into the coastal regions of the country, in six different cities plus Washington, that I have come to the conclusion that whatever role that you and your colleagues had in writing this, you had some inspiration in terms of the balance that you struck.

Even language that struck me as opaque, while I think I was correct, seems to have a purpose in its opaqueness, and seems to have functioned in a way that I, quite frankly, was astonished by, as we looked at the act.

The first thing that struck me, Mr. Chairman, in our oversight hearings was the diversity of the coastal regions of this country, and the good sense, I think, that the authors of the act demonstrated in recognizing that, and in recognizing in turn that the program ought to be a voluntary one.

The uniqueness of each of the coastal regions of the Nation and of the ways in which each of the coastal States has chosen to respond to the challenge of protecting their coastal resources, leads me to think it was wise indeed to resist whatever temptations there might have been, at least from some quarters, to impose some kind of a federally mandated set of standards, or even a federally mandated program.

As you well know, there are at least some who would have us do that, and I must say that while I was in some sympathy with that

view when we began this undertaking, I have reached the conclusion that even if we had the power to write and to enact into law a program which would impose Federal standards uniformly throughout the country—and the Senator knows better than I that such a thing is a political impossibility, in any event—I think it would be unwise for us to do so.

I do believe that the program is quite proper in its attempt to balance different levels of decisionmaking.

We found, Senator, as we traveled around the country and asked people whether the C. & M. program had worked and what difference, if any, it had made in the 8 or 9 years it had been on the books, that uniformly there was enthusiasm, no matter where we were.

I must tell you—and I know you know at least as well as I—that in my own personal judgment, the program has worked unevenly in various States. I think some States have excellent and strong programs; some States not so strong; and some States are, as you well know, not participating in the program, at least not at the moment.

But uniformly, wherever we went, we were told that the three greatest contributions of the act to date have been, No. 1, the extent to which it had increased public awareness of the importance of the resources of the Nation's coastal zone and of the critical importance at this point to begin to act intelligently to manage wisely those resources.

Second, of course, people were almost uniformly enthusiastic about the availability of Federal funds to assist in the management of those resources.

And third, throughout the country, wherever we went, we heard praise for the consistency provision of the act, section 307, which while with all due respect to whatever role the chairman may have played in authoring it, is written in some language other than the English which I was taught, yet still seems to work.

In fact section 307 was the subject of praise wherever we went. It has indeed worked as the carrot, which I'm sure the authors of the act intended in attempting to persuade States that it was in their interest to participate voluntarily in a program.

We found that there were a number of critical questions remaining. The first was, how can we provide, as we look at the need to reauthorize the act, further incentives, if possible, for all States to participate in the program?

Second, we have to face sooner or later—and I hope sooner—the question of what we do in the event that a State or States choose ultimately not to participate in the program, having found that there is a national interest in the resources of the coastal zone? What responsibility does the Federal Government have to act to protect that national interest in the event that ultimately one or more States choose not to do so?

And, in fact, as the chairman well knows, how can we require at least the agencies of the Federal Government itself to act in a manner that is consistent amongst themselves, and second, consistent with the objectives of this act.

We have on our side, as I believe you know, marked up in subcommittee and reported to the full committee H.R. 6979, a bill

which I introduced, and which stands, I think, in some contrast to that bill submitted to us by the administration.

If I may, I would like to very briefly outline for you the provisions of the bill as reported in my subcommittee just last week. We call for 8 more years of full funding of the act with the consistency language, such as it is, unchanged.

We call for a review of existing Federal programs affecting the coastal zone. That is no mean feat in itself. I think you know the President has, in any event, requested such a review.

We ask there be a report to the Congress and that Federal agencies be directed to amend their regulations to conform with the standards of the Coastal Zone Management Act with respect to their activities in the coastal zone.

In an effort to achieve the proper balance between the responsibility of the Federal Government and that of the State government on that question of where do the tough decisions get made while the chips are down, we authorized the Office of Coastal Zone Management to require up to 30 percent of its section 306 grant money to be spent toward significant improvements in the national objectives of the act.

In effect, that is saying to the Federal Government, you, you may decide how up to 30 percent of the States 306 money will be spent to meet your conception of the national objectives.

In section 306(i)—and this is where we had some controversy, as you know, in the subcommittee markup—altogether predictable, I'm afraid—if there was one thing that we found throughout the country that had not uniformly been accomplished to date, it was an inventory and a designation of those areas of the coastal zone containing resources of national significance, and the development of enforceable standards regarding permissible uses in those areas.

In the bill which I originally offered to the subcommittee in the House, we encouraged States to conduct such an inventory, to designate those areas, and to promulgate enforceable standards regarding permissible uses in those areas.

When the smoke settled in the subcommittee markup, we were left with a section encouraging the States to do that. We had struck from the bill—and I must say to the Senator that I was not surprised by this, although I was disappointed—a further provision that said in the event that a State did not accept that encouragement to proceed to inventory and designate areas in their own States, then in that event the Federal Government, at least with respect to the activities of its own agencies, would conduct such an inventory and designation and promulgation of standards regarding the conduct of the agencies of the Federal Government.

Well, this was considered a bit much. I believe I heard the Senator use the phrase "radical" in his description of the way some people viewed the act originally in 1972. As you well know, to talk about the Federal Government stepping into a State to do just about anything is not a particularly popular thing to do, and although our provision applied only to the activities of the Federal Government itself, it still offended enough sensibilities to render itself vulnerable to an amendment to strike.

It was struck, and we were left with, as I say, the new section 306(i), encouraging the States to do this.

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As a further encouragement and carrot for them to do so, we provide that if they do it, then they are eligible for a new program of what we call coastal resource improvement grants for Federal funds for preservation and restoration, for urban waterfront development, and for beach access.

And may I say that all of this our bill does, with no net increase in authorization levels over the existing authorization fundings in the act.

One final change of significance we make in the evaluation section 312—we provide, as was informally requested throughout our hearings, for greater public participation in the evaluation process.

If I may, very briefly with respect to the administration's bill, which has been introduced by the chairman of our committee on request, H.R. 6956, I regret to tell you that it is the product of 9 months of labor on the part of several agencies in town. It ought not to have taken that long, to put it charitably.

They have come to us with not much. They have come with a net reduction of 30 percent in authorization levels, which is to say not even level funding of the act as it has stood for 8 years.

They have come and asked for only 5 years of full funding, and they have put in there that it is retroactive; that is to say under the administration's bill, the State would be eligible for 5 years of funding starting when they had a program approved. This means that the States that would be penalized would be those that most enthusiastically initially got on the ball and got approved programs.

For example, Washington, Rhode Island, and Oregon, the earliest States to be approved, would be penalized. They would find themselves with the clock already having begun to tick on the final 5 years of funding several years ago, quite as a surprise to them.

In section 306 of the administration's bill, there is a heavier club in the hands of the Federal Government because there is a requirement that increasing percentages of that money each year be spent on significant improvements in attaining national objectives, with no ceiling and no indication of what is meant by increasing percentages in terms of magnitude.

As you know, this is the "Year of the Coast," yet provisions for beach access were deleted from the administration's bill. In summary, as far as I can see, there are simply no new incentives for States to participate.

In fact, the existing incentives and statutes seem to me to have been watered down. There is no provision at all to protect the national interest in those instances in which it seems likely not to be protected by virtue of State action.

I just want to say that I would hope that the committee would see fit in its wisdom to use the stronger version of the legislation as a markup vehicle.

As for section 307, the consistency provisions, we have many a piece of testimony stating that the existing statutory language is, as I said, opaque, difficult to understand. They granted my initial contention during the hearings, and I myself, each time I read it, was less certain what it meant, and the conclusion was, believe it or not, therefore don't change it, because we spent years promul-

gating regulations to implement it as it is, and no one was enthusiastic about starting that process over again.

As I say, although a purist in the English language might regret the conclusion, we have definitely concluded that it is working, either in spite of or because of the way it is written.

And we in the House decided to respect the request of those who asked us to leave it as it is.

In summary, let me just say that wherever we went, in a great many areas throughout this country, we encountered very substantial public enthusiasm for the way this act has been implemented and the way it has worked. This is notwithstanding the fact that it clearly has come into being piecemeal and unevenly throughout the country.

Finally, let me again commend you, Mr. Chairman, as one of the original authors of the act in 1972, and the wisdom which I think you had in devising really a balancing act in terms of the decisions that have to be made.

I think it is a piece of legislative craftsmanship that has worked, and on behalf of the House subcommittee, I would urge you not only to reauthorize it and to extend it, but to strengthen it in as many ways as seem politically feasible in this most bizarre of recent political years. Also the year of the coast.

Senator HOLLINGS. Very good. I really appreciate the leadership and the work that you have done, and there has been a lot of work. I know that you have been traveling, and the breath of fresh air, Congressman, in this whole endeavor is you on that House side. We needed leadership, and we've got it, and I frankly like your bill.

We only introduced S. 2622 at the request of the administration, and we are not married to it at all. I rather like the approach that you have used, with a review made much more thoroughly so with your travels and hearings and studies.

In regard to the fact that we do have opaqueness in the law, I think of our colleague Senator Muskie at his conference yesterday, when a reporter said, "You seem to be a little ambivalent." He said, "Well, if I do, then I have had a successful news conference."

Mr. STUDDS. I noted that.

Senator HOLLINGS. We have had a successful law. And with respect to the English language, I think the line that Rex Harrison used in "My Fair Lady," he said, "There are parts of the country which have yet to speak English."

Mr. STUDDS. I will not debate which parts.

Senator HOLLINGS. I think that we have a good law and a good movement going, and that is a fact. We do see the enthusiasm out there. We set out to develop a reconciliation and a balancing act in the very beginning with our port authorities, association of counties and municipalities, and all the other agencies.

We didn't have as much participation by the fisheries community as we would have wanted at the initial stages, because we just didn't have as much development in fisheries as we have today. With the identification and the opportunity with the 200-mile limit, we can really move in and give far more emphasis to fisheries and our fishing industry, and the public generally becomes far more interested in it.

I think that we are definitely on the right track. I made some notes, but I see we all are going to be running a little behind here today.

As for the consistency provision, our oil company friends would continue to object to it. That was in the days and times when you could get something past them.

Senator HOLLINGS. I don't know whether we can any more. You and I will try.

Mr. STUDDS. That was, as the Senator might imagine, part of our reasoning in deciding not to tamper with it.

Senator HOLLINGS. Right.

Mr. STUDDS. Just to leave well enough alone.

Senator HOLLINGS. I would think so. They can go along with it. It's well conceived. We should allow it to work for a little while before we try to mandate a change from the Federal level. Because it's that atmosphere and aura of cooperation which is really spawning the local leadership and participation, and we don't want to cut it off.

I can't thank you enough. We really appreciate it, and I'm looking forward to trying to match your program and in essence take your bill on this side of the Capitol, and I hope we will be in a markup before long.

I don't think it's going to take too long for us. We thank you very, very much.

Mr. STUDDS. Thank you, Senator. I look forward to working with you.

Senator HOLLINGS. Our next witness is Senator Cranston. He's just been asked by Senator Byrd to assume his leadership responsibilities as the assistant majority leader, and so I'm going to accept his statement at this point for the record, and we'll be glad to hear from him at his convenience.

[The statement follows:]

STATEMENT OF HON. ALAN CRANSTON, U.S. SENATOR FROM CALIFORNIA

Mr. Chairman, thank you for the opportunity to appear briefly this morning before the Commerce Committee to express my strong support for reauthorization of the Costal Zone Management Act.

Since the Act was first authorized in 1972, the voluntary state-federal partnership on coastal zone management, I believe, has been effective both in identifying and protecting our coastal resources. This certainly has been the experience in California.

Under the federal coastal act, California has received about $12.3 million to develop and implement its coastal program. The California Coastal Commission is now on the verge of certifying a number of local coastal programs, and most of the LCPs will be completed by July 1981.

However, federal funding is going to continue to be very important to California—and I expect to all other participating coastal states—in finalizing coastal plans and then overseeing their implementation. In California, we have learned from experience that the cost of running the coastal management program is at least as much—or more—than developing it. If we are to ensure that states do not drop out of the federal coastal program or abandon their coastal management programs entirely, I believe that we need to reauthorize the Costal Zone Management Act and fund its provisions fully. I want to urge this Committee to authorize an appropriation for Section 306 of the Act for at least the next five years that is adequate to complete the institutionalization of state coastal programs at the local level and establish a strong foundation in implementing the state and local programs.

I am aware that the California Coastal Commission has reservations about any substantive new requirement or extensive procedural change in the Act since this would be disruptive to states like California which have approved programs or programs about to be approved under the current standards. In any event, if there

are to be changes in the number of mandatory programs for the states to meet, there probably should be additional funds to to help the states with these new tasks.

I also hope the Committee will see fit to reauthorize Section 315(2) of the Costal Zone Management Act which provides grants for acquiring land to provide access to coastal areas. I recognize that this section of the Act has never been funded, and given current fiscal constraints, I don't anticipate that Congress will appropriate funds for Section 315(2) in fiscal year 1981. Nonetheless, the Office of Costal Zone Management has directed the states to do more to protect and increase public access to the coastline. This is a worthwhile goal; but it is unlikely more can be done by the states without federal financial assistance. I sincerely hope that this provision will be retained in the law so that it can be funded in the future.

Finally, I would like to add a word in support of the federal consistency provision of Section 307 of the Coastal Zone Management Act. Other than federal financial assistance for the development and implementation of coastal zone management programs, the only incentive for state participation in the federal Costal Zone Management Act is the authority for states to review federal activities and activities which require a federal permit including OCS plans to ensure they are consistent with approved state coastal programs. This consistency provisions permits states to object when a proposal threatens nationally important coastal resources, and has been used effectively to coordinate activities and accommodate state and regional interests. With the exception of the Department of Interior's interpretation with respect to OCS leasing, California's experience after 18 months of administering the federal consistency provisions has been that they are working well and are fulfilling the purposes intended by Congress when the Act and its 1976 amendments were adopted. Thus, along with the California Coastal Commission I support reauthorization of this section of the Act without change.

Mr. Chairman, I'm very pleased that Michael Fisher, Executive Director of the California Coastal Commission, is able to be here today to provide the Committee with much greater detail about the state's experience with the federal coastal zone management program, and the direction it needs to go in the future to protect and manage this critical resource. I hope that the Committee will give his views and recommendations very careful consideration as you proceed to finalize legislation reauthorizing the Costal Zone Management Act.

Again, my thanks for this opportunity to testify.

Senator HOLLINGS. We next have Hon. Michael Glazer, NOAA's Assistant Administrator for Coastal Zone Management.

STATEMENT OF MICHAEL GLAZER, ASSISTANT ADMINISTRATOR FOR COASTAL ZONE MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

Mr. GLAZER. Thank you, Mr. Chairman. In view of the time, I will simply submit my statement and summarize it briefly.

As you indicated in your opening remarks, we believe the act is basically working well. Nineteen of the thirty-five eligible States and territories have approved programs now, covering 68 percent of the Nation's coast. By the end of the year, we think that number will be up to 25 States covering 82 percent of the coast, and most of the remaining States are working on programs which we think ultimately will be approvable.

Mr. Knecht, the former Assistant Administrator for Coastal Zone Management, appeared before you last October and went into some detail on what the States have managed to achieve thus far under their programs. I won't repeat that today. Let me simply say that the Administration, after lengthy interagency consultation, has concluded that the act is working effectively, that further time is needed to make certain that the States management programs become an institutionalized part of their government apparatus, and that reauthorization is therefore merited.

We have come up with a bill which essentially will reauthorize the act with the addition of three critical changes.

In section 303, we have proposed a more specific list of national policy objectives to be achieved. This listing is in response to criticism from a variety of individuals, ranging from developmental interests to environmental groups, that the act is not specific enough about national objectives. We have developed a broad list of eight objectives to be achieved and have combined that with a continuation of funding.

The funding provision in the Administration's bill, as Congressman Studds indicated, provides for 5 years of 80 percent Federal matching assistance for States after their programs have been approved. For most States that period will start in 1978, but if a State is approved this year or next year, it will be guaranteed 5 years of full 80 percent funding from the date of approval. Thereafter, over a period of 3 years, the Federal share will decline to 33⅓ percent, so that the States will gradually take over more of the burden of supporting a program which by then should be their primary responsibility.

Senator HOLLINGS. Do you think they need the full 5 years?

Mr. GLAZER. I think they do. Based on what we have seen, it takes a fair amount of time, once you have developed the procedures, to start implementing them. It's not a simple task. State and local agencies have to learn to work together and with Federal agencies. Every State program can be improved to some extent, and a number of years will be required to go through that process. We think 5 years is about the right amount of time for full Federal funding; thereafter a decreasing share of Federal funds is appropriate.

We have provided sufficient funding levels to accomplish that objective and combined that with a call, as Congressman Studds mentioned, for an increased portion of that funding to be devoted to significant improvements in dealing with achievement of the national objectives that we have specified. Under this approach, we can insure that States institutionalize their programs while at the same time they follow through on improvements which are necessary to achieve the coastal management objectives of the act.

We think there is continued room for improvement in every State, and I think most States would agree with us. Our goal would be to work with them, to devote a portion of the funds to improvements in their programs. We strengthen the review portions of section 312 of the act by calling more explicitly for an annual review of States progress in carrying out their programs, meeting their grant conditions, and achieving improvements in the programs.

Finally, we have authorization language which, as Congressman Studds has indicated, is about a 30-percent decrease, at least in the short term, from the current authorization levels.

Mr. Chairman, as I said, we believe this is a sound act. It needs some refinement, which we have provided, but we are committed to carrying out and continuing the program.

Senator HOLLINGS. Well, we thank you very much, and the entire group that you have down there at the Coastal Zone Management Office. We think they have been doing a good job, and we appreciate the leadership you are giving.

One of the most consistent criticisms, Mr. Glazer, is the lack of specificity. Industry and conservationists have pressed this from different points of view. The special area management concept seems to address it. Predictability on policies between agencies, information for facility siting, identification of truly rich habitat areas for fish and so forth. What is your view? What comment would you have?

Mr. GLAZER. Well, we certainly agree with that in two respects. I think we have tried to provide in the policy provision of the administration's bill a list of the more specific goals.

But, in addition, we have been, as you are aware, exploring special area management plans throughout the country. We are actively working with groups in Washington and Oregon on such plans. We find that it has a potential of working well, both from the aspect of protecting areas with unusually valuable resources that are subject to significant development pressures, providing more predictability for the people in those areas as to how the range of Federal agencies are going to respond to plans for development, and expediting permit applications.

We think that special area management planning is an approach that has a great deal of promise. We are currently exploring the concept in the Federal coastal programs review that we are carrying out for the President. Our report should be out this June.

We think there is considerable work that can be done in that area. We are starting to do it. It is very complicated and difficult when you try to get everybody involved in an area to sit down in one room and agree what they want to do for the future. It's not an easy task.

Senator HOLLINGS. Several Senators have written us and asked to include a provision in the law for special area management.

Mr. GLAZER. I believe that special area management can be carried out within the structure of the law as we have it now. I think between technical assistance that we can provide, and the State's own section 306 moneys, there is no reason that the current structure of the act could not accommodate this activity. We do think it is something that we want to use the discretion we have within the act to engage in aggressively, however.

Senator HOLLINGS. What about the matter of hazard mitigation, where even Howard Jarvis, the Taxpayers Union, and a great many others have picked up on that cycle of building in hazardous areas, and then comes a disaster, and then comes the disaster relief, and then subsidies to rebuild all over again.

What can the coastal zone management program be doing in this area in and of itself to build credibility? The title says management, but it doesn't look like you're doing anything but managing a cycle of rebuilding, waste, devastate, and rebuild.

Mr. GLAZER. Well, I think we're sensitive to that issue, and I think there are a number of things we can do.

First of all, much of what has to take place is State and local planning—either improvements in building code requirements, or development of plans before a disaster strikes—so that immediately after the disaster there is not a great rush to build without a decent plan.

We are currently providing, through the existing act, technical assistance to State and local governments to develop better storm surge models, so they understand where the damage is likely to occur; better evacuation and postdisaster planning; better information on building codes and setback requirements; and additional assistance of that nature.

We are engaged right now with another part of NOAA, our Office of Oceanic and Atmospheric Services, which has mapping responsibilities, in a joint effort to develop storm surge models for a number of areas around the country, and to provide better evacuation planning.

So I think most of what we can do is in the form of technical assistance.

The other side of that is the Federal Government clearly is not yet of one mind in terms of the way it is carrying out its own responsibilities for hazard mitigation, and we are addressing, as part of the Federal coastal programs review, the problem of various agencies going off in different directions and not really having a common focus on the issue of what should be done.

The problem of FEMA's policies and their application in coastal areas is one that has been often discussed, and I think they are very aware of that, and we are trying to work with them on those kinds of problems.

Senator HOLLINGS. What about erosion projection?

Mr. GLAZER. That's another kind of technical assistance.

Senator HOLLINGS. This is a real one. We find it constantly now.

Mr. GLAZER. I know that in the State of South Carolina, that's one of its——

Senator HOLLINGS. All the beaches—now some try to blame one particular cause, in this one case, a Corps of Engineers project, a jetty, it's supposedly causing erosion. But if it has, it's been over numerous years before any construction.

In other words, if in the context of management, shouldn't the agency, along with the State coastal agencies, make a very thorough study, which was done at one time along the Atlantic seaboard. Joel Tydings and I, 10 or 12 years ago, had the corps make this study. We could lock onto that and bring it up to date and find out. Then the various States, with that information, and the councils themselves could project areas, however characterized as not befitting a permanent construction.

I find in my area, everybody wants to get down to the beach, and any kind of house they can buy that classifies, put it up on stilts. You wouldn't do it, I wouldn't do it, and I know the home I grew up in as a kid on the beach is now out in the ocean, because we have had that kind of erosion over the years.

It seems like the public and management and agencies and our awareness could foresee a little, project, and then we could better understand so that when you built on that, that wouldn't be a public charge. I mean it's sort of an assumption of risk of your own, if it's to be allowed. If it's to be allowed.

I think that this is a real problem. I said something about access to the beaches. I don't know that there's going to be any beaches out in certain areas to have access to.

But we don't seem to use our facilities to go about it in an objective or scientific way, to put everyone on notice, so they will all know. Every time these hurricanes hit, homes that are swept away, quietly we say under our breath, "Well, we knew that was going to be the first one to go, with any kind of blow." They didn't stay in it. They could see it coming.

We had that flood insurance, Federal standards of construction in order to comply for flood insurance. Why couldn't there be a similar type of approach for any kind of permanent structure in certain areas? Let the States designate them, but let the Federal Government in its overall study provide the scientific information upon which they can set the policy.

Mr. GLAZER. We certainly agree that those are significant problems. They are problems for a number of States, and I think this is an example, as is the special area management example, of what I see as a changing role for our office as we move from trying to help States develop approvable programs to helping States put these programs into operation. The problem now is how are we going to do good coastal management?

I think this kind of technical assistance effort, supplying the information that's available, helping people apply the information to the problems they have, is one of the major roles that our office is going to play in the future.

Senator HOLLINGS. Coastal energy impact fund. I just was talking to the Senator from Louisiana, Senator Bennett Johnston. We worked very diligently at the institution of that particular program and fund. The President now proposes a rescission of $50 million in loans and grants.

Can you tell us what that rescission impact will be? I have specifically in mind the question raised in the appropriations subcommittee the other day. The concept was that if you had new industry from energy production and you had a tremendous surge of population, personnel, employment in an area, you'd have to build water lines, sewer lines, police protection, schools, and everything else during, say, the construction of a refinery or a power site, or whatever it is, and then thereafter, where it takes 6,000 to build it, it would only take 600 to manage and operate. But you still had to have at least temporary school buildings and everything else out there so that they would receive a proper education.

Now we find them building hospitals, that's sort of a long range thing. South Carolina celebrated our 300th anniversary, some 10 years ago, which was, of course, 6 years before our 200th anniversary for the country, and I can show you places where I need hospitals that are not necessarily even in a coastal area.

What I'm getting at, of course, is tell us something about that coastal energy impact fund. Is it being used for impact, or just for a regular need? When you get all the way to a hospital, then you've got community need that has been established over the years, not any recent energy impact.

Mr. GLAZER. I'd be glad to explain some of the uses of the fund. I would point out, however, that hospitals, are identified in the act as one of the projects which we are to fund.

But let me give you some other examples of pending applications. The State of Massachusetts has an application for $3 million to

purchase oil spill cleanup equipment for the use of its coastal communities, and to train them to react to the problems of oil spills if they occur.

In Provincetown, Mass., we have a $2 million application for fish pier improvements. Commercial fishing is being displaced by Outer Continental Shelf energy activities in the New Bedford area, and the fishing boats simply have to have an alternative place to dock. Massachusetts intends to use CEIP funds to build alternative fishing facilities.

In California, there has been an estimate that one of the effects of Outer Continental Shelf energy development is going to be a reduction in recreational use of the coast. Some parts of the coast will simply be less attractive for recreational use. The city of Santa Barbara is planning to restore a wharf which had been damaged by fire, to make it a public attraction. This project will replace, in part, the recreational losses that are occurring elsewhere along the coast.

I could go on. One last example is in Port Arthur, Tex. Port Arthur is one of the top boom towns in the country, the kind of example you were just talking about. They have a tremendous housing problem and a demand for facilities to accommodate the growing population, and they need infrastructure improvements. They are going to provide new housing for about 19,000 new people, and they are seeking $6.7 million in CEIP funds to build some of the associated infrastructure in the city, within currently developed areas, to accommodate those energy industry workers.

Those are the kinds of projects for which CEIP funds are currently being sought. We do have some hospitals, as well, but I wouldn't want to overemphasize that as a principal item.

Senator HOLLINGS. Let's take the one in Santa Barbara that you mentioned. It's almost like a class in torts in law school, where you have to have the proximate cause, the nexus or connection. Was the dock there before the passage of the energy impact fund? If we were going to try to take all the things that could be identified with oil drilling offshore, Texas and Louisiana—at the passage of the act, we should have sent the money and the office and everything down there. It would have been an entire economy.

We weren't trying to catch up for all the past things. They operate with a surplus. In fact, in Alaska, they're mailing you money.

So it wasn't a deleterious impact or effect, for what we were trying to do is take those things truly as a result of the new energy programs and everything else of that kind.

Now if you had a dock that had been there over the years and someone says, well, the dock burned down, this is a good time to get some money from Washington to rebuild the dock.

That's what I'm trying to get at. Is that a proper administration of that particular fund, in your opinion?

Mr. GLAZER. I think if we were simply going to rebuild the dock on the theory that there was a dock there before——

Senator HOLLINGS. Yes, and a fire caused it, not the energy impact. It was an overcharge of energy, I guess, when it caught fire.

Mr. GLAZER. The rationale for that particular project was BLM's estimate that there would be a recreational visitation loss in that general coastal area from lease sale 48.

Senator HOLLINGS. But that's from burning the dock, not from the energy impact.

Mr. GLAZER. No, excuse me——

Senator HOLLINGS. If it catches fire within the coast——

Mr. GLAZER. No, sir. The visitation loss would be as a result of the Outer Continental Shelf oil development from lease sale 48, and the restoration of this dock would be an attempt to provide a new recreational use which could mitigate losses, elsewhere.

Senator HOLLINGS. I know what its intended for but what caused it? Was it an energy impact specifically as the fund is designated? And did the offshore drilling cause the fire?

Mr. GLAZER. No, sir. It did not cause the fire. It caused the recreational loss that the Bureau of Land Management has estimated.

Senator HOLLINGS. But it was already there before the energy impact occurred, isn't that correct? Even before we passed this act? Long before?

Mr. GLAZER. Excuse me. I perhaps have not clearly explained—the recreational loss was not from the burning of the dock. There are recreational losses in other areas of the coast as a result of the OCS energy activities. The dock happens to be in restorable shape, and as a result of that, the State is trying to mitigate the loss of recreational opportunities by creating new recreational opportunities and taking advantage of a dock that happened to be there. That's the nexus.

Senator HOLLINGS. This is the only site that we need to watch it. When we mention such things as the facilities for fishing, that was the general idea in mind, 85 percent of the population crowding down to the sea by the year 2000, 85 percent of the population, and one is overcrowding the other, and that's the energy impact, and that's the coastal zone management development.

You can see that that is readily approved. But if you're just going to take under consideration some rationale like a Philadelphia lawyer and say, well, you know, you could do this to do that to do that, then everybody gets the general idea, go on and ask about that fund and get some money out of it from Washington.

I don't blame the President for wanting to rescind that. But then I wonder why you ask for a rescission when you talk about the fisheries.

Mr. GLAZER. Well, I think the reason for the rescission was simply a judgment that in this year of an attempt to bring the budget into balance, something had to give somewhere, and in the judgment of those within NOAA, this was the place we had to give.

I should mention as well with respect to the issue of targeting Federal assistance that we have agreed with the Office of Management and Budget to do an evaluation of the way that the coastal energy impact fund loans are targeted to insure that we have an appropriation allocation of funds.

Senator HOLLINGS. Well, we'll watch it and see how it comes out, because with you on that dock, I have one that the next witness wants to build down in his back yard, I can tell you that.

The way you describe it, we've got our program.
Mr. Glazer, we appreciate your testimony.
Mr. GLAZER. Thank you very much.
[The statement follows:]

STATEMENT OF MICHAEL GLAZER, ASSISTANT ADMINISTRATOR FOR COASTAL ZONE MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

Mr. Chairman, and Members of the Committee, I am pleased to be here today to testify in support of the Administration's proposed bill to reauthorize and strengthen the Coastal Zone Management Act of 1972 (the "Act").

Last August, President Carter issued an Environmental Message in which he alterted the nation to the critical importance of preserving and managing wisely our valuable coastal resources, and called for renewal and modification of the Act to achieve these goals. In his Message the President recognized that most of the state coastal programs that have been federally approved have only recently begun implementation activities, and therefore, that reauthorization of the Act is necessary to ensure that these programs are allowed to mature and become fully integrated state and local government functions. To foster necessary coastal management improvements, the President also supported the enactment of amendments to the Act, built upon the existing, sound foundation of the national program. Since that announcement, NOAA has worked closely with coastal states, special interest groups, members of the public, and Federal agencies to transform the President's message into a bill for consideration by the Congress.

On October 9, 1979, Robert W. Knecht, the former Assistant Administrator for Coastal Zone Management, testified before the Oceanography Subcommittee of the House Merchant Marine and Fisheries Committee in detail concerning the past performance by states under Act, and the reasons for the President's reauthorization initiative. I will not repeat that information, but instead will confine my testimony to a description of the major features of the Administration's bill. In brief, these include provisions designed to strengthen the policy section of the Act, to continue and focus more carefully Federal funding for State programs, and to emphasize program evaluation tied to results in specific areas of national concern.

I. FINDINGS

The Administration's bill adds a new finding within Section 302 to highlight the importance of managing the coastal waters subject to state jurisdiction. State coastal zone boundaries include the waters of the territorial sea and the Great Lakes, and to date we have seen only a minimal amount of attention paid by states to the management of this critical segment of the coastal zone. This new findings will underscore the need for improved state efforts to manage water areas as well as shorelands.

II. DECLARATION OF POLICY

One of the more critical changes to the Act being proposed by the Administration concerns the "Policy" provisions within Section 303. Presently this section lacks specific guidance regarding the objectives to be achieved by the states under the national program. To remedy this problem, the Administration bill sets out in detail the significant coastal management objectives which deserve full consideration during state implementation of coastal management programs. The objectives establish the framework against which the results of coastal management programs can be measured. Specifically, states will be directed to address the following eight issues:

(1) Protection of significant natural systems such as wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, fish and wildlife;

(2) Management of coastal development to minimize loss of life and property caused by improper development in flood-prone, storm surge and erosion prone areas, and areas of subsidence and saltwater intrusion;

(3) Priority consideration for coastal-dependent uses and orderly processes for siting major facilities related to national defense, energy, fisheries development, recreation, ports and transportation;

(4) Public access to the coast for recreation purposes;

(5) Assisting in the redevelopment of deteriorating urban waterfronts and ports, and sensitive preservation and restoration of historic, cultural and aesthetic coastal features;

(6) Coordinated and simplified procedures to ensure expedited governmental decision-making for the management of coastal resources;

(7) Continuing consultation and coordination with and adequate consideration of the views of affected Federal agencies; and

(8) Timely and effective opportunities for public participation in coastal management decision-making.

NOAA intends to specify, through regulations or otherwise, the types of state program activities which are covered by these policies. In accordance with the Administration's proposed amendment to Section 306, we will then require that increasing portions of Federal grants be tied to significant improvements in these areas.

III. ADMINISTRATIVE GRANTS

The Administration's proposed amendments to Section 306 are intended to ensure that states are provided with Federal financial assistance necessary to institutionalize state programs. At the same time the Administration's bill seeks to distribute future funds in a manner which will guarantee that states work towards achieving coastal resource management improvements which are necessary to satisfy the objectives of the Act.

First, the Administration proposes to provide states with a Federal matching share of 80 percent for program administration for a five-year period. The five-year period begins in 1978 for those States approved prior to or during 1978, or in later years for subsequently approved states. Following this period, declining levels of Federal support will be provided, and within three years after the five-year period Federal grants will reach a level of one-third or less of the costs of program implementation. This amendment combines a long-term commitment to support the national program with a transaction element which recognizes that states will be expected to assume a larger share of the costs associated with the administration of the coastal programs.

Next, the Administration's amendment to Section 306 calls for states to devote increasing portions of Federal funds to management activities leading to "significant improvements" related to the new coastal objectives specified in Section 303. The modification will assure that attention is paid to the national coastal objectives. This targeted assistance effort will also help to assure that management problems identified during state program evaluations become the focus of special attention. In fiscal years 1979 and 1980, NOAA experimented with a similar proposal by targeting twenty percent of Federal administrative grants to selected coastal management goals. That demonstration project has proven useful in measuring the success of State programs and is the model for the Administration's proposed amendment to Section 306.

IV. REVIEW OF PERFORMANCE

The Administration proposes to modify Section 312 of the Act to provide for a comprehensive system of state program oversight. The language of the Act presently calls for a "continuing review" of state performance. As we move into the next phase of the national program—namely, coastal program implementation—we need a more definitive evaluation mandate that provides for a clear accounting of and response to the achievements and deficiencies which emerge from our review of State program operations.

Under the Administration's bill, during each grant period NOAA would review state performance and develop evaluation findings. These findings would assess the extent to which states have adhered to the management program and grant provisions which we approved and would identify the degree to which state program activities are addressing the coastal goals detailed in Section 303. Then relying on the amendments to Section 306, we would use the results of these evaluation findings to condition future state grants in a manner which ensures that a portion of the Federal funds is targeted to activities leading to significant improvements in problem areas.

The Administration's amended version of Section 312 maintains NOAA's authority to terminate all financial assistance to a State if it fails to adhere to and is not justified in deviating from the management program and grant conditions approved by NOAA. However, an additional and less drastic sanction is added. The Administration's amendments to Section 312 allow NOAA to penalize states that fail to achieve needed management improvements by reducing the level of financial assistance provided under the Act. Funds would be withheld or recalled commensurate with the degree to which the state failed to secure the improvements which were negotiated following the evaluation review.

In combination, the Administration's proposed amendments to Sections 303, 306 and 312 identify clearly the critical coastal management goals which warrant full

consideration during program implementation, the means for supporting state activities to achieve those goals, and the oversight and sanctions that will be applied to ensure that states are held accountable for implementing improvements necessary to meet these goals.

V. ISLAND PRESERVATION

The Administration's bill deletes from Section 315(2) language related to shorefront access and limits the provision island preservation. The Act will continue to stress the importance of shoreline access in State programs, but will rely on other Federal programs for land acquisition. The focus on island preservation has been continued in view of the Administration's ongoing review of alternatives to protect undeveloped barrier islands, initiated by the President in his 1977 Environmental Message. The Federal Barrier Island Task Force, formed in response to the President's directive, has prepared a draft environmental impact statement which identifies section 315(2) as a tool which might be used to achieve any later determined barrier islands protection objectives involving joint acquisition with coastal states.

VI. BIENNIAL REPORT

The current annual reporting system called for by section 316 of the act has not worked effectively. Due to the difficulty in developing reports within one month following the end of each fiscal year, they have generally been provided to the Congress well after the required submission date and often fail to include information that will be useful for Congressional oversight of the national program. To remedy this problem, the Administration's bill amends section 316 to require a biennial report to be submitted by April 1 of the year following the reporting period. The first report will cover program administration for fiscal years 1980 and 1981.

We propose an additional amendment to section 316 to provide the Congress with a summary of the evaluation findings called for pursuant to revised section 312 of the act. As a result, the Congress will receive information concerning state program accomplishments and also any program termination or Federal funding reduction actions that have been imposed.

VII. AUTHORIZATION OF APPROPRIATIONS

I would now like to turn to the Administration's request for new authorizations.

(1) First, we seek an eight year reauthorization totalling $315 million dollars to support continued state program implementation under section 306 of the act. Authorization authority for such sums not to exceed $50 million is being requested for fiscal years 1981 and 1982, and thereafter we propose to establish a pool of funds not to exceed $215 million to maintain Federal support at decreasing annual levels through the remainder of the eight-year period. This authorization extension is linked to the Administration's proposed amendment to section 306 which provides States with five years of 80 percent Federal matching funds, followed by three years of declining Federal support.

(2) Next, we seek a five-year reauthorization at an annual level not to exceed $6 million to provide assistance to complete the estuarine sanctuaries program called for by section 315(1) of the act. This section provides 50-percent matching grants to coastal States for the purpose of establishing estuarine areas as natural field laboratories for research and study. A major goal of this program is to preserve and analyze the protected ecosystems in order to improve future management decisions related to estuaries. The program also provides for learning centers which are used by educational institutions and the public.

(3) Third, the bill provides for a two-year authorization at an annual level not to exceed $10 million to provide funds for the island preservation program authorized under section 315(2) of the act. Under this section, 50-percent matching grants may be used by States for island acquisition. As noted above in my discussion of amendments to section 315(2), this authorization is being sought to preserve one of the Administration's options for protecting the nation's barrier islands.

(4) Finally, we are seeking an eight-year authorization at an annual level not to exceed $5 million to provide funds necessary to maintain NOAA's capability to administer the national program.

Mr. Chairman, the Administration's bill reflects, first, our belief that the Coastal Zone Management Program is a good investment for the Nation; second, our assessment that the program is basically sound and requires only refining amendments; and third, our commitment to continuation of the program. With the amendments the Administration has proposed—particularly those affecting sections 303, 306, and 312—we can go on with the business of completing and implementing state coastal

management programs and with securing the sound management results which prompted enactment of the Coastal Zone Management Act in the first instance.

That concludes my testimony. I will be happy to answer any questions the Committee may have.

Senator HOLLINGS. We have a panel of State witnesses. The Honorable James Waddell, chairman of the South Carolina Coastal Council. The Honorable Gary Greenough, chairman of the Alabama Coastal Area Board. Michael L. Fischer, executive director of the California Coastal Commission. Mr. Chris Shafer, chief, Great Lakes shorelands section, Department of Natural Resources, Michigan. And Mr. James F. Ross, the chairman of the Coastal States Organization, Land, Conservation and Development Commission in Oregon.

We welcome you.

I will gladly acknowledge the presence of my colleague, Senator Waddell from South Carolina, whom I have worked with over the years, who singlehandedly got our coastal council through the State of South Carolina.

I know where you got your gray hair from, Senator.

We'll be glad to hear from you at this time. I do have questions submitted for Mr. Shafer here by Senator Riegle. If he comes along momentarily, he will ask them, and we will have those for the record.

STATEMENT OF HON. JAMES M. WADDELL, JR., CHAIRMAN, SOUTH CAROLINA COASTAL COUNCIL, COLUMBIA, S.C.

Mr. WADDELL. Mr. Chairman, thank you very much. I have submitted a written statement, and rather than read the written statement, I think I will, if it's all right with the Chair, comment specifically on what I consider some of the problems with the administration's bill. And I will try to comment in order of their importance, I think, to us in South Carolina.

Senator HOLLINGS. Your statement will be included in its entirety, or you may summarize as you wish.

Mr. WADDELL. Thank you, sir.

The first comment that I have is on section 3, subsection (3) of the administration bill affecting section 306. This provision would require that an approved State program spend an increasing per centum of its 306 grants on activities leading to significant improvements in eight areas of need identified in proposed section 303.

This requirement would apply to the second year section 306 funding and any grants thereafter, and my comment is, Mr. Chairman, that there is no ceiling set on how high these increasing per centums may go. This leaves too much discretion to the Secretary of Commerce and to OCZM. There is not even a mandate to issue regulations to implement this, and there is no provision for a determination by the Secretary that a State program is adequately progressing in any of the eight areas.

There is no guidance of how significant improvements will be defined. Section 2 of the administration's bill, affecting section 303 of the CZM Act, is the provision that adds eight needs to the findings of section 303.

These are the areas that increasing per centums of section 306 grants money must be spent on. My comment is that all except the

need to assist in the redevelopment of urban waterfronts are covered in NOAA's development and approval regulations at the present time.

These are the basic issues which coastal zone management programs must address. Congressional identification of these areas is supportive of the current State efforts.

Section 4 of the administration bill: This provision calls for an annual evaluation of State programs based on grant conditions, terms of the program, and the extent to which the eight needs of proposed section 303 are addressed.

It is specifically stated that any or all of the unexpended portion of a grant may be withdrawn if a State is failing to achieve significant improvements in meeting the needs of the proposed section 303.

My comment is that there is no ceiling on the amount of grant that can be withdrawn since the grounds for withdrawal are based on the Secretary's definition of significant improvements.

There is too much discretion, again, in this provision, and again there is no mandate to issue rules and regulations.

Section 3 of the administration's bill: This provision allows 5 years of 80 percent funding commencing in fiscal year 1978 or the year of the program's approval, whichever is later.

After those 5 years, the percentage may drop to 33⅓ or less.

I feel, Mr. Chairman, that 5 years of Federal support is probably insufficient to insure the management programs are institutionalized. In order for the Federal support to have a long-lasting effect, additional years, say 8 to 10 years, should be provided.

This is only a guarantee of 5 years of the Federal support, since after that time 33⅓ or less may be the Federal share; and it is not reasonable to require that increasing per centums of a shrinking grant be spent on federally identified needs in so-called national interests.

This is a radical departure from the thrust of the CZM Act, and will discourage States from participating in this much-needed coastal management effort.

Section 5 of the administration's bill: This provision deletes beach access from funding authorizations, and replaces it with island preservation. It is not clear to me, Mr. Chairman, that section 306 money can be spent on acquiring public access for beaches or public resource areas.

Listing of public access in proposed 303 implies that this is so. However, nevertheless, beach access should not be deleted from section 315, since not all coastal States have islands, and this funding source is needed to insure adequate public coastal resource access.

Section 7 of the administration's bill is my next comment. This section would authorize only $50 million for the fiscal year 1981, 1982, and $215 million for the following fiscal years ending September 30, 1988.

This would all be for the 5 years of 306 funding and decreased percentages of funding for the 3 years following.

Also authorized would be $6 million for each year through September of 1985 for estuarine sanctuaries. Island preservation would be authorized at $10 million for fiscal year 1981–82 only.

I don't know what you're going to buy with that amount of money on the coast of this great Nation, and I think they have identified some 300 of these islands.

With more States expected to enter the program, the authorization, I feel, is insufficient. Obviously the percentage cuts after 5 years of 80 percent funding will be dramatic in order to insure every approved State gets its 5-year funding at 80 percent.

As stated earlier, 5 years is insufficient time. Mr. Chairman, I think those are the main things that we find problems with the administration's proposed bill.

Senator STEVENS [presiding]. Thank you very much, Mr. Waddell. Senator Hollings asked me to express his regrets that he had to leave. I'm sure you realize with the current changes going on, he is assuming additional responsibilities in the Budget Committee, and he's been called there. He asked me to come sit in for him, and I'm sure you know and others know that Senator Hollings and I worked together on the original act and the amendments, and I am pleased to be able to be here today to continue this dialog.

Let me say this, gentlemen: It was Senator Hollings' intention to ask each one of you a few questions, and we really would like to see if we could place your formal statements in the record, and have a dialog here as to the specific problems that you would like to have the committee and its staff examine as a result of these hearings.

Mr. Waddell, we know we are in difficult economic conditions, and it takes a definite time frame to establish the institutional and political structures in any State to comply with an act such as this. Do we need a 5-year reauthorization with the phaseout? Would that provide sufficient time under the economic conditions that persist in the country today?

Mr. WADDELL. Mr. Chairman, the Federal Government's—part of our State government—our State government is no different than you on the Federal Government on budgetary restraints, and I do think that you do need a longer period than 5 years on this program, if the national interest is to be served.

We frankly were approved last year, Senator, and we have been in operation now 2½ years, but got final approval. The program is just getting established. I think there are alternative methods in some of the sections that could be considered.

For example, you talk about island acquisition, a very expensive process; $10 million, as I commented earlier, would not even be a drop in the bucket to accomplish this task.

For example, I think there are other ways to do this. In our State we have 60 miles of our coastline out of 240 that is in the public domain, and we talk about beach access. Yet I think we could economically provide access to this 60 miles of public domain much cheaper than me going to Hilton Head or to the Isle of Palms where Senator Hollings has a home and acquiring property. Because that's the only way you're going to get beach access in a highly developed area, and so I think some alternative should be looked at, to say, all right, we've got 60 miles of this. Now how do we get it in the use of the people of this country and this State?

I think that in the long run this would be a much cheaper process than going out and trying to acquire property. You know,

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the thing that bothers me—you wanted comments and I'll give them to you—I think the Federal Government is making—with the problem with erosion that we are facing, the problem with development on beaches, and yet the Federal Government itself subsidizes development through the Federal flood insurance.

You wouldn't have near the development in certain areas without Federal flood insurance that you have. They are subsidizing some in our area that are absolutely—it's not a 100-year flood level, it's a quarterly flood level that they are building them in, and they are insured by the Federal flood insurance.

Now if that is going to continue, then you mandate us to look to the future, and yet the Federal Government itself turns right around and says, oh, that's all right, you build it, we'll insure it against a 100-year flood hazard, and so we are caught in the middle.

I sometimes wonder what is the policy, and to me I think that everybody I have heard earlier today has skimmed by that one particular factor.

Senator STEVENS. It's interesting to me, because we have a very difficult time getting insurance in Alaska unless there is absolute compliance with those historical statistics, as far as floods are concerned.

What about saltwater intrusion? What are the problems there?

Mr. WADDELL. From just—when you say saltwater intrusion, you are talking about a normal flooding situation? Is that correct, Senator?

Senator STEVENS. Right.

Mr. WADDELL. We have some problems there, but they are not the ones that are the difficult ones. What worries me—you know, we have had some severe hurricanes on the South Carolina coast, and I have seen complete beaches completely as clear as this table, and yet within 24 hours after the storm is over, they are out there with hammers and nails and 2 by 4's, going right back to the same place, putting them right back again. You've seen it all up and down this coast.

People are going to that ocean. I don't know what the great attraction is. I wouldn't build there. I like where I live, 15 or 10 miles inland from it. It's very pleasant.

But basically what I am saying to you is the saltwater intrusion is not as bad a problem as I foresee with the storm surge, a 100-year storm surge, and then we're going to have some very difficult problems.

I think we need to implement some sort of building codes. People are going to be there, so why not ask them to construct in a manner that would be less destructive in case of a storm? It can be done. But that is not being done now, and that's the thing that worries me about Federal flood insurance.

We have a 100-year level, and you can't get insurance unless you have your first floor 10 feet above this level, and so—but I worry. I don't think some of them are going to survive, Senator.

Senator STEVENS. Staff tells me that the committee made a study and that all of the Coastal Zone Management States incorporate the new policy areas. Now if we require the Federal office to recognize the flexibility necessary for each State to carry out these

new standards, would that be sufficient, or do we have to get specific?

Mr. WADDELL. Senator, I would much prefer to be as flexible as we possibly can. I think if you get specific, I think we can handle the problem. I think the greatest thing about this Coastal Zone Management Act has been the awareness of the public, as stated earlier today in this hearing, and I think that we could take technical assistance, and I would prefer to stay as flexible as possible.

Senator STEVENS. With regard to acquisition of lands, are you acquiring much land under this program? I say that because on another committee we are making a study about the acquisition of land by the Federal Government and by governments per se, and the GAO made a study—I don't know if you're familiar with it—that indicates that governments are acquiring land when an easement or a contractual arrangement with the existing owners would be sufficient and available at much less cost. Are you familiar with the GAO study?

Mr. WADDELL. Yes, sir. Frankly, at the present time, most of the acquisitions—none have occurred in the last 3 or 4 years, but we have obtained within the last 5 years some very sizable tracts that were through the heritage trust program, and at no cost to the State or the Federal Government. It came to the State of South Carolina and through the heritage trust program and nature conservancy we also acquired another large tract.

As I say, at the present time, we have about 60 miles of 240 miles of coastline in the public domain. That's either in the State or the Federal Government. We have not had any direct purchases, Senator, since we have been in an approved program. We have never been funded for any of that.

Senator STEVENS. Thank you very much.

[The statement follows:]

STATEMENT OF JAMES M. WADDELL, JR., CHAIRMAN OF THE SOUTH CAROLINA COASTAL COUNCIL

Thank you for this opportunity to comment on the administration's proposed reauthorization legislation for the Coastal Zone Management Act. I think it is critical that the subcommittee hear what the states have to say about this proposal; and more importantly, for the future management of our nation's coastal resources, it is critical that you heed our advice and not adopt this legislation in its present form. The Administration's proposal has the potential of eroding the substantial foundation coastal states have created in the national coastal management effort. The very nature of this voluntary effort and the basic intent of the Coastal Zone Management Act will be drastically changed if this proposal is adopted. Allow me to elaborate.

The Federal Coastal Zone Management Act established a voluntary program to encourage the states to develop and implement coastal resource management programs. The emphasis for the program is, and hopefully will continue to be, the creation and institutional of coastal management programs in each coastal state. Each state has different needs, styles of government, and institutional arrangements. The Coastal Zone Management Act acknowledges that fact and promotes the development of the best program for each particular state's situation. The Administration's proposal fails to acknowledge this basic tenet of the Coastal Zone Management Act. Under this proposal the work states have accomplished will be relegated to a lesser degree of importance as they would be required to strive to meet the Secretary of Commerce definition of "significant improvements" in certain national issue areas. Coupled with this "increasing per centums" requirements if the decrease of Federal funding to implement the programs already approved under the Coastal Zone Management Act. This double-barrelled attack on state coastal management efforts will only induce negative impacts on coastal resources conservation.

The Administration's proposal to improve coastal management will in fact have the opposite effect!

Besides not providing adequate funding to insure the institutionalization of state management programs for future coastal resource conservation, the Administration's proposal has several other related faults. I will attempt to describe these faults to you, and then to analyze what I think is behind this proposal. Finally I will try to suggest changes that may improve our national coastal management effort, and I will offer brief comments on reauthorization legislation H.R. 6979 offered by one of your colleagues in the House, Mr. Studds.

The Aministration's proposal provides no criteria to guide the Secretary as to what "significant improvements" are or as to how much "increasing per centums" should be. There is not even a Congressional mandate to develop regulations to implement this scheme. There is too much chance for mischief, not to mention mismanagement, with that much unbridled discretion. Additionally, if improvements in coastal management is the goal of this proposal, then some indication as to what deficiencies exist should also be identified by Congress. The eight "needs" identified in the Administration's proposal are certainly key issue areas that coastal management programs must address, and all coastal states with approved programs have had to deal with these issues in their programs in order to gain Secretarial approval. Listing of these issues as the underpinnings of a requirement to spend increasing amounts of money on them sheds no light whatsoever on how states have failed to deal with these issues, if in fact they have failed. At the bare minimum, Congress should provide, either in Section 306 or Section 312, that the Secretary may determine that a state is making adequate progress or significant improvements in any or all of these areas and therefore be exempt from spending more money on them. But the Administration's proposal does not have even this fundamental provision. The arbitrariness of this proposed scheme is evidence of how the Administration's proposal is ill-conceived.

The approach taken in the Aministration's proposal is the old "shot-gun" approach. Rather than relying on an adequate assessment of how coastal programs need to be improved and structuring guidance and aid to make improvements in an efficient and sensible manner, the Administration fails to identify any particular problem and would require that all states must throw more money into the same issue areas. This fault of the proposal is a reflection of the basic problem underlying this so-called improvement effort by Administration. An adequate assessment has not been made by anyone in the Federal Government of how or even whether coastal programs are adequately addressing coastal management needs. No regulations exist to implement Section 312. This proposal does not require development of such regulations even though a state could lose a substantial portion of its Section 306 grant through a Section 312 evaluation. A requirement to develop regulations for Section 312 should, at a minimum, be added to this proposal. Specific criteria for assessing improvements or progress, for establishing base-line data, and for evaluating the sufficiency of institutional and administrative arrangements would be the optimum addition to this legislative proposal. With any addition of substantive requirements such as those suggested for Section 303, the need for such criteria and regulations becomes even greater. The lack of an adequate assessment of state programs can, therefore, be traced to a lack of guidance from the Congress, which the addition proposed for Section 303 may address.

Those eight needs can be clear indication from Congress of what it expects coastal programs to work toward if, instead of arbitrarily requiring that more money be spent to achieve significant improvements in these areas, the Congress would find that where an evaluation of a program identifies a need for improvement of one of these areas, that money then be required to be spent on efforts to improve the program in that area.

The Administration's proposal seeks to make states go through the program approval process every time they apply for a 306 grant. The needs identified in proposed Section 303 are in fact already included in the program development and approval regulations promulgated by NOAA. These issues have to be addressed in each program before they may be approved. The Administration's proposed requirement fails to acknowledge this and presumes that the approved programs are inadequate. The logic of this ill-conceived notion is non-existent. Clearly programs are approved with the understanding that they are dynamic and will continue to improve as expertise is gained. This proposal should be dropped and the states allowed to continue working on the priorities they have so arduously already identified.

As I am sure you are aware, H.R. 6979, introduced by Mr. Studds on the House side, has some provisions similar to the Administration's proposal and some which are not. In general H.R. 6979 is preferable to the Administration's. However, my

comments today, insofar as they are relevant to provisions of H.R. 6979, apply to that proposal as well as to the Administration's, except for section 318. I would recommend adoption of section 318 as proposed in H.R. 6979 instead of the Administration's section 318.

Thank you again for the opportunity to speak with you about the reauthorization of our coastal management legislation.

Senator STEVENS. Mr. Fischer?

STATEMENT OF MICHAEL L. FISCHER, EXECUTIVE DIRECTOR, CALIFORNIA COASTAL COMMISSION, SAN FRANCISCO, CALIF.

Mr. FISCHER. Thank you very much, Senator Stevens.

Before I begin, just one very brief comment. Senator Hollings, in speaking with Congressman Studds, praised the work on the House of Representatives side and praised the leadership of Mr. Studds and the informed nature of their work over there, and frankly, I'd like to comment as a visitor and observer from afar. I am extremely impressed with the decisionmaking process on both sides of the Capitol. The Senators and the Congressmen have been unbelievably well prepared by extraordinarily good staff work, and frankly the bill that has resulted from that work is, as has been noted, quite superior to the one that the administration labored far too long on.

If I might, Senator, I'd like to very briefly summarize six points from my testimony and submit the majority of it for the record.

To just begin with a general overview, you should know that we strongly and urgently support the reauthorization of the Coastal Zone Management Act.

This, as everyone is going to say today, is the "Year of the coast," hardly the time to weaken the Nation's resolve to protect the coast; nor is it the year to attach to a voluntary program strict mandates coupled, strangely enough, in the administration bill, with declining financial support to States.

That's why we support many of the provisions of H.R. 6979 over the provisions of S. 2622.

A little bit about the California experience. I think it might be helpful in emphasizing the importance and benefit of the Coastal Zone Management Act.

The California coastline, unlike Alaska's, which comprises 40 percent of the Nation's shore, stretches only 1,100 miles. But what might look small from Alaska's standpoint is large, perhaps, seen from other States' standpoints.

We have a coastline that is the equivalent of the shoreline from Boston to Charleston, S.C., an area extremely rich and varied.

Our coastal commission has had to deal with virtually every type of urban growth—low and moderate income housing, for example—resource conservation, energy development, and coastal management issues.

We have so far processed about 45,000 development permit applications for everything from a single-family house and a temporary fence erected in the name of art—the 24-mile-long Christo curtain—to the Sohio pipeline project, which was promptly approved by the California Coastal Commission.

The process hasn't been easy. It has been extremely controversial. Our conclusions haven't been universally popular, and we still have very many problems to work on. But there is one lesson from

our work that is abundantly clear: In California, coastal management, carried out under the provisions of your act, has had a chance to be tested. And it works.

The six points that I'd like to hit on very briefly are: First, the regulatory process; second, the need to fund and at least reauthorize section 315, dealing with public access; third, hazardous areas; fourth, OCS consistency; fifth, our application of the national interest provisions; and finally, coastal energy impact program funding.

In my testimony, I listed a number of examples of successes achieved through our regulatory process. But frankly, success in coastal zone regulation is tested by those things that don't occur: A wetland isn't filled. A hillside isn't graded. Access to the beach isn't blocked off. Condominiums are not built beetling over the eroding coastal cliffs.

It is hard to measure those. It is impossible to do so. Only by having a regulatory program in place, though, does the public become aware of the kinds of development that they simply shouldn't even bother to propose.

On public access, my testimony indicates the need to reauthorize section 315. Frankly, we are puzzled and astounded at the Office of Management and Budget's insistence on dropping that. The purchase of public access easements—pathways between the highway and the ocean—provides one of the biggest bangs for the limited buck in terms of recreation.

After 20 years, I still remember with some bitterness moving from where I grew up in Texas to California. The first time I saw the Pacific Ocean was driving down Sunset Strip, coming to the Pacific Coast Highway, and there was my Pacific Ocean, really an exciting instant. I drove down on the Pacific Coast Highway and drove north for 15, 20 miles to confront a solid wall of houses and fences between the road and the ocean. I couldn't get to the beach.

That was, frankly, an emotional experience for me. I resent it still. We have since then, in the last 7 years in California, seen that development along that stretch of the coast does not go forward unless the owner of the property dedicates a pathway along his property line between the highway and the beach at no cost to the public, and in some cases where public access easement is needed to be purchased, we have seen that they have been acquired.

To see the Federal Government abandon section 315 is something that frankly is incredible to us.

The next point—hazardous areas. My testimony covers and I won't reiterate what Senator Waddell has indicated, other than to say that it really is not in the Coastal Zone Management Act, but it does rest in the Federal camp to solve that. That is because the Federal disaster relief programs and the insurance programs act as an incentive to build in known hazard areas. You can't expect a voluntary regulatory program to fight that very tough incentive. You can't address that in the Coastal Zone Management Act, but the Federal Government must address that.

The next point, Outer Continental Shelf consistency. My testimony lists a number of exploratory and production wells that we have reviewed for consistency of these offshore oil drilling efforts primarily in the Santa Barbara channel and offshore Long Beach.

Those examples of energy development programs and projects with which we have concurred are examples of our ability to work in a very businesslike and very constructive basis with Chevron-USA, Shell, Arco, Mobil, and others. Other individual corporations in the oil industry. And frankly, our experience has been that we have been able to turn around the consistency concurrences within an average of about 21 days.

Unfortunately, as you will see in Mr. Barre's testimony, the Western Oil and Gas Association, and the American Petroleum Institute continue to distort, to use innuendo, and to squall like Chicken Little, indicating that there are massive problems that the oil industry cannot deal with in the consistency provisions.

Frankly, I think that both API and WOGA represent their industry poorly and irresponsibly, and you will find that individual corporations will attest to their ability to deal with energy development regulation in California quite well.

And a related point on the national interest: My testimony recounts at length the experience of the Sohio pipeline project in the Port of Long Beach. The oil industry and others use the Sohio project also as a whipping boy to indicate that Coastal Zone Management is a bureaucratic stumbling block to national interest projects.

In fact, when Sohio applied for the permit to construct the tanker terminal at the Port of Long Beach, that permit application was accompanied by a letter from the Department of Energy indicating that this was a facility of a national interest.

We found ourselves in an extremely tough situation there, Senator, because there is absolutely no reason for Californians to accept that project. None of the oil was proposed to stop in California. It was a transshipment point, so that Alaskan oil could go to the Midwest. Massive air pollution problems and other problems would have resulted from the project.

We had a political problem to face. We faced it; I think we faced it responsibly. We approved the Sohio terminal within 60 days of its application. We approved it with a condition that required the tanks, part of the terminal, to be located several miles inland, so that the limited shoreline property could be used for actual coastal-dependent or water-dependent uses.

Sohio objected to that condition, and about 1½ year after we first issued the permit, they applied for an amendment to the permit. Again after the statement from the Department of Energy that it was essential that the tanks be located on the shoreline and that that also was in the national interest, within 30 days of such an indication from the Federal Government, we approved the amendment to the permit.

I think that you and others involved in coastal zone management who are interested in balancing national interests with coastal protection can use the Sohio project as a good example of coastal zone management.

The final point deals with the coastal energy impact program.

Senator STEVENS. Well, that's a very difficult statement in view of the fact it wasn't built. I mean how can we use a project that wasn't built as an example of good coastal zone management?

Mr. FISCHER. You can use it, Mr. Stevens, if you look at coastal zone management as opposed to other environmental regulation. I'll take off my coastal zone manager's hat and then just be an observer of the process.

There was a problem in California between the State air resources board and the regional air pollution control district.

Senator STEVENS. All right. I understand that, and it finally led to its not being approved.

Mr. FISCHER. It was because of that tangle between the regional agency and the State agency with different conditions, differing approach to it, that Sohio got tangled up in that snarl, and frankly we had to expend considerable energy to keep the coastal management program out of that same political snarl. We were successful in doing that, at some political cost to ourselves.

The final point, Senator, on coastal energy impact program funding, pages 19 and 20 of my testimony outlines our concerns there, but frankly we cannot conceive of a good reason for what is occurring.

On one hand, the Department of the Interior is hastening the pace of offshore oil development by their leasing schedule, which has just been released by Secretary Andrus. It calls for eight sales in California within the next 5 years, four major sales, and then four reofferings.

The maturity of several of more recent lease sales, lease sales 35 and 48, means that we are reviewing between two and three plans of exploration and plans of development a month.

We have other examples of problems that we have with the Department of the Interior, but the bottom line of that is that we must pay much more attention, we must be vigorously involved in a much greater rate of planning and production proposals.

At the same time, in the national interest, and probably quite rightly so, the pace of offshore oil development is being stepped up. At the very same time another arm of the Federal Government is cutting back the coastal energy impact program.

The effect on California is this: We currently get a $1½ million in grants per year. Next year we would get $150,000 in grants. I think that Mr. Glazer gave some perhaps misleading examples of the use of the coastal energy impact program funding, and I'd like to provide some much better examples.

For example, we are using the money to fund a staff member in every local government, every county up and down the State, so that those supervisors, the boards of supervisors, may be informed participants in the arcane development program procedures of Interior.

We would have to lay off all of those staff members of local government and in our office, and we would be unable to effectively participate in the Outer Continental Shelf leasing process.

We are also using $300,000 of the money to give to the California Maritime Academy. Using a computer simulation system, they are training tanker operators, the people in charge of offloading and lightering, simulating pipeline ruptures and pump failures and that sort of thing, to train them to be able to respond to those kinds of emergencies, because the offloading operation is a point at which oil spills are most likely to occur.

We are also working with Marad using some CEIP funds, again with a computer simulator, to postulate a different number of oil rigs in the Santa Barbara Channel, and using a mock supertanker bridge and experienced shipmasters, we are driving ships through this hypothetical obstacle course to determine how many rigs we can responsibly permit in the Santa Barbara channel, and what their location could be.

Also, the Ports of Los Angeles and Long Beach; last month California forwarded to Mr. Glazer's office a proposed $20 million loan which would build new railhead and transshipment terminals at that port to free up shoreline properties so that the incredibly increased energy production requirements can be met.

Senator STEVENS. Let me interrupt you, because I should tell you I've got to go to another hearing at noon, so I would like to move along.

Let me ask you, we are going to submit questions to all of you who have appeared at Senator Hollings' direction. We'd appreciate it if you'd respond to them, but I chaired another hearing the other day about Big Sur, and they want $100 million up there for what amounts to Federal zoning within your coastal zone because they feel that somehow or other they are not being protected.

Now if that $100 million goes off into Big Sur, it's just going to be that much less money for the whole coastal zone program. What is the basic problem there, from your point of view?

Mr. FISCHER. The basic problem is the permanence of the level of protection that can be assured. If you have seen Big Sur, Senator, it's a hundred-mile stretch of incredibly beautiful——

Senator STEVENS. I know it very well. I'm originally a Californian.

Mr. FISCHER. Regulation, as you know, is a potentially transitory instrument. Zoning, as such, has been around only 50 years, and if it is Congress intent to say that the way Big Sur is now is the way it ought to be for a series of succeeding generations, then selective acquisition of property and the management of the rangeland and the watersheds is important.

Senator STEVENS. Well, I thought it was our intention to give California that authority to determine its own future. Why should we put the Federal Government more and more into land acquisition in order to assure protection when we have given you the authority to protect it yourself?

Mr. FISCHER. We have the authority and the ability through the regulatory process to tame down and to attempt to reduce the amount of development that will occur, but regulation, as you know, Senator, cannot constitutionally preclude all use of property.

You have given us the authority to acquire property. You have given us the authority to regulate property. But my understanding of Senator Cranston's bill and Congressman Panetta's proposed bill is that it is their judgment that the Big Sur constitutes a national treasure, and it is in the national interest to see that a greater level of protection, a lesser amount of development than we could constitutionally do under regulation. And, as you know, we have Mr. Jarvis running through the land in California. It is unlikely that the State will have the funds to acquire those properties

which you might judge to be in the national interest to see that are acquired.

Senator STEVENS. Then why don't you take some easements or take some kind of protection short of title and allow the protection to exist short of title?

Mr. FISCHER. We have extensive experience in that, Senator. I think that the General Accounting Office did you a very serious disservice with that report. We have found that in places of high demand, such as the coastal zone, the cost of acquiring scenic easements and development rights is the equivalent to the cost of buying fee. There is no savings, and to give you a will-o'-the-wisp——

Senator STEVENS. You'd still have private ownership subject to taxation. I don't see how you can say that. In your State now, it's back to the point where over 50 percent of it is owned by government. You won't have any taxes left. You'll have more Jarvises if you keep it up.

Mr. FISCHER. Well, frankly, my own personal philosophy would support the acquisition of easements rather than fee, and to have those people who have lived on the land, who have become true custodians and stewards, to remain there and to manage that resource. That's, I think, far preferable to Federal ownership and management.

However, in most cases we have found, again in the coastal zone, lands are owned by speculators, not residents, and the speculative value of the development right is almost indistinguishable from the speculative value of the fee purchase price.

So, for GAO to tell you that there is a financial difference or a cost difference is a will-o'-the-wisp. It is not true. The philosophy that you expressed, I share.

Senator STEVENS. Let me say one last thing, and that is about your offshore development. Many of us are worried about the rapidity of expansion of the offshore program, but the strange thing is again I go to another committee, and we are having hearings about the denial of access to onshore lands, and guess who shows up? The same people who oppose the offshore problem.

I think somehow we've got to get consistent. If we are going to have exploration somewhere, I would like to see some balance. I would urge you and others who are concerned about the coastal zone—and I'm certain this committee is, and I certainly am—to try to see what we can do about developing some balance about access to particularly onshore public lands.

I did read your statement about Redondo, and being from there, I want to commend you and your commission on what you have done down there. It is a good example. That's a great example of what coastal zone planning can do.

Mr. FISCHER. Thank you.

Senator STEVENS. As I said, we will submit the questions, if we may.

[The statement follows:]

STATEMENT OF MICHAEL L. FISCHER, EXECUTIVE DIRECTOR, CALIFORNIA COASTAL COMMISSION

INTRODUCTION

I am pleased to be here to strongly—and urgently—support the reauthorization of the Coastal Zone Management Act. As you know, President Carter has designated 1980 to be the Year of the Coast. The nation's shoreline and coastal resources are extremely important to the economy, environment, and enjoyment of life of this and all succeeding generations. Congress was wise to recognize this in 1972 when it first passed the CZMA. Since then, the voluntary state-federal coastal zone management partnership has proven quite effective in identifying and protecting those resources. But there is much work yet to be done; this is hardly the year to weaken the nation's resolve to protect its coast. Nor is it the year to attach to a voluntary program strict mandates coupled, strangely, with declining financial support to states. That is why we support many of the provisions of HR 6979 over the Administration's proposal.

In enacting the Federal Coastal Zone Management Act in 1972, the Congress set in place a voluntary program to assist states in both protecting and developing our nation's precious coastal zone. To accomplish these sometimes contradictory purposes, the CZMA offered the states some general guidance but relatively little in the way of financial assistance. In that the majority of the nation's population lives near the coast and since the most complex, controversial, and difficult land and water use issues must be faced in developing and implementing state coastal management programs, there is little wonder that in your evaluation of the CZMA you will find an uneven history of success.

In your deliberations on how to improve our nation's coastal management program you will hear from many interests, some applauding the success of the program, others decrying its failures. To provide you with some perspective in evaluating these observations, I would like to give you a somewhat detailed account of our experience with coastal management in California. California has I believe, the longest history of involvement in state coastal management. I also believe we have the most comprehensive coastal management in the country; I know it is the most expensive. Then, based on our experience and evaluation, we have some specific comments on the two bills—H.R. 6959 and H.R. 6979—that have been introduced to reauthorize and amend the CZMA.

OVERVIEW OF THE CALIFORNIA PROGRAM

The need for coastal management in California was first raised in a 1931 State Assembly report which called for centering in one state agency, the enforcement of all coastal laws and the state oversight of both public access rights and development control. Subsequent studies reiterated this recommendation, but it was more than a generation later—1965—before an effective coastal management program, one with authority to regulate development, was put in place for the most critical segment of the California coastal zone—San Francisco Bay. In 1965 the Legislature established San Francisco Bay Conservation and Development Commission (BCDC) for a trial period and directed it to "Save the Bay". This new agency was to regulate the placement of fill in the Bay, assure public access to the Bay shoreline, and develop a plan for the long-term conservation and development of the Bay. In 1969 the Legislature adopted the Bay Plan into law and made BCDC a permanent agency.

After numerous abortive attempts in the Legislature to adopt coastal regulation, Proposition 20 was presented to the voters of California in 1972 to set up a temporary agency to regulate development along the rest of the California coastline and to prepare a plan for the future of the coast. Despite a well-financed and intensive campaign by special interests to defeat the measure, it passed, and the California Coastal Zone Conservation Commission, a second temporary planning and regulatory body, was established. The Commission delivered its plan to the Legislature and the Governor in 1975 and, based on the plan's recommendations, the California Coastal Act of 1976 was passed. The Coastal Act again created a permanent state coastal management agency like BCDC—this time for the rest of the state's coastline. This new law required local governments to bring their plans into conformity with the policies of the Act, and until the local plans into conformity with the policies of the Act, and until the local plans are completed gave the Coastal Commission continued regulatory authority over coastal development. After the local programs are certified, the state Coastal Commission will serve as an appellate body for local decisions and retain direct permit control over sensitive resource areas and critical types of development with the coastal zone.

At the same time the Legislature passed the Coastal Act, it also established the State Coastal Conservancy and gave it authority to buy and sell coastal property, to make grants for the protection and restoration of coastal resources, and to otherwise carry out the policies of the Coastal Act through non-regulatory means. Finally, the citizens approved a bond measure that provides $125 million for the acquisition of coastal areas of parkland.

Together, the Coastal Act, the Conservancy Act, the Bond Act, and the 1969 McAteer-Petris Act, (which established the San Francisco Bay Commission) comprise the California Coastal Management Program that was approved in 1977 by the Department of Commerce under the standards of the federal Coastal Zone Management Act. From 1974 through 1977, California received about $3⅓ million under Section 305 of the CZMA to develop its coastal management program. Since 1977, we have received just over $9 million under Section 306 for program implementation. This federal investment is significant and is greatly appreciated. But you should also know that California has invested more than three times this amount on its own. Since 1965, California has spent over $37 million of its resources to develop and carry out its management programs for San Francisco Bay and the rest of the coastline.

The California coastline stretches about 1,100 miles, from the north coast's towering redwood trees to the palm-lined shores of San Diego Bay—about the same distance as from Boston to Charleston, South Carolina on the east coast. The California coastal zone is about 1.3 million acres in size. Within this vast area of rich resources, California has had to deal with virtually every imaginable type of urban growth, resource conservation, energy development, and coastal management issue. Together BCDC and the Coastal Commission have processed about 45,000 applications for coastal permits for everything from a single family house and a temporary fence erected in the name of art to a nuclear power plant and the SOHIO pipeline project. The process hasn't been easy; the conclusions haven't been universally popular; and there are many problems still lacking solution.

But there is one lesson from all this that is abundantly clear. In California, coastal management, carried out under the provisions of the federal Coastal Zone Management Act, has had a chance to be tested. And it works.

As you may know, the federal approval of California's coastal management program was challenged through a lawsuit brought by the American Petroleum Institute. API asserted, among other things, that the California program could not be approved until local programs were completed, was not precise enough to guide the oil producers in making their plans, and did not adequately consider the national interest in the formulation of the program. The federal district court disagreed on all these counts and upheld the program approval by NOAA. In late 1979, the U.S. Court of Appeals affirmed the district court's decision.

We raise this issue because many interests have appeared before Congress to cite these and other concerns as reason for making substantive amendments to the federal coastal act. We have been able to work through problems in administering all aspects of the law, such as federal consistency, the CEIP loan program, and the "national interest" issues concept, and none has been either so difficult or as confusing to justify major changes to the Act's language. In fact, we believe that any substantive new requirement or extensive procedural change would be so disruptive to states that have approved programs (or are moving toward program approval) under the current standards as to far outweigh any gains that could be achieved in amending the act.

If you do decide that changes are necessary, we would like the opportunity to assist in formulating the precise amendment language. But, as we believe will become clear from our following discussion on the specific provisions of the federal coastal act, extending the law without major change, and fully funding the provisions of the act so that it can be successfully implemented, are both justified by our experience and the best course of action the United States government can take.

LOCAL COASTAL PROGRAMS

To refine the standards of the California coastal management program as well as to reduce the administrative burden to applicants for coastal development permits, the Coastal Commission and the 68 local governments along the coastline have embarked an ambitious collaborative program of revising each local general plan and its implementing ordinances to make them consistent with the policies of the Coastal Act. Once these local coastal program (LCPs) are completed next year, the regional coastal commissions will be terminated and their regulatory will be taken over by local governments.

The process of developing LCPs has been a difficult one. Local governments have been called upon to address issues of state and national significance, sometimes at

the expense of important local concerns, in a legally binding fashion. To make this process more acceptable to local governments, the Coastal Act provides that at least half of the federal funds available to the Commission under Section 306 of the CZMA must be used for the development and implementation of LCPs. To date, California has allocated over $4 million in federal and matching state funds for LCP development. At least an additional $2.5 million is neded to complete the work. Thereafter, funds will be needed to implement the additional regulation, planning, and management tasks that are required by the LCPs. The State of California is required by law to reimburse local governments for costs, such as for LCP development and implementation, that are mandated by State law. Since the passage of Proposition 13 and in face of other government spending limitations, the availability of federal funds to carry out programs developed under federal laws has become critically important. For this reason, we strongly urge that you authorize an appropriation for Section 306 for at least the next five years that is sufficient to complete the institutionalization of state coastal programs at the local level as well as to establish a strong foundation in implementing the state and local programs.

THE COASTAL REGULATION PROCESS

The most publicized and controversial aspect of the California Coastal Management Program has been our permit and appeal process. Beginning in early 1973 and extending until local coastal programs are certified in the early 1980s, most development along the California coast requires a permit from one of the six regional coastal commissions. These regional commission decisions can be appealed to the State Coastal Commission. We have processed over 40,000 applications in the past seven years and have approved about 93 percent of them, most with conditions to bring the projects into conformity with the Coastal Act requirements.

Has this process worked? Has it helped save the coast? Following are but a few examples of some projects that came before the Commission with the approval of local government and a brief description of how the California Coastal Management Program handled the permit application. Based on these examples, we believe the regulatory process has worked admirably well.

Redondo Beach redevelopment project.—In 1973 the City of Redondo Beach requested Commission approval to build five sixteen story buildings to accommodate 1,153 residential units immediately adjacent to the shoreline. Because of the size of the structures, lack of public open space in the plan, and absence of assurances that low-income residents could be accommodated in the project, the Commission's staff entered into lengthy negotiations with the redevelopment agency. Ultimately the Commission approved, and the City built, a project of 542 units with a maximum of four stories. A three-acre public park connecting to a waterfront boardwalk was included in the project and 200 units were provided for low- and moderate-income people.

AVCO.—AVCO proposed to construct 1900 residential units without commercial recreation facilities or low-income housing in a rapidly urbanizing area in Orange County. The Commission conditioned the project to reduce the size to 400 residential units and to add a 300 unit hotel complex with a major public plaza. In addition, a seven acre public park was designed into the project.

J. T. Hawthorne.—A proposal to construct a commercial building in a wetland and floodplain in Carlsbad, San Diego County was conditioned to protect coastal resources. The structure was resited on the parcel to avoid the sensitive area and grading was modified to minimize disruption of slopes and to protect habitat values.

Oceanview.—In a rural part of Santa Cruz County, the Oceanview project was to construct 260 condominium units. Concerned about the lack of public access and high cost of the units, the Commission approved a permit for 97 condominium units with a mandatory vacation rental program. A 28-acre park was also dedicated as part of the project.

Santa Monica redevelopment project.—In a project similar to the Redondo Beach project, the Santa Monica Redevelopment Agency proposed to construct 639 residential units on half of the 20-acre site along the Santa Monica waterfront. The Commission approved a 397-unit project which used the entire site and included a six-acre park. 250 units were to be constructed or rehabilitated for low and moderate income residents.

Long Beach Convention Hotel.—This 18-story convention hotel was proposed for an oceanfront parcel in downtown Long Beach. Because the project would have been almost exclusively for hotel guests and would have provided few public amenities, the Commission conditioned the permit to expand the boardwalk area and public plaza, include a bicycle path and 36-acre public park with fishing area, and provide a recreational vehicle campground.

Santa Cruz long-toed salamander habitat protection.—Several permit applications for single family residences have been denied or modified to protect this endangered species. Houses on critical habitat have been denied and the parcels are in the process of being acquired as additions to the Valencia Lagoon Preserve. Houses in less important buffer habitat areas have been modified to minimize lot coverage and slope disruption.

Unfortunately, it has not always been possible to reach total agreement with project developers so that the permit could be conditioned to allow is approval. In some cases it has been necessary to deny the approval of projects to protect coastal resources. A few examples include:

Angress project.—This proposal involved the construction of a 60-unit hotel and resort on a key oceanfront parcel on Tomales Bay in Marin County. Because of the scenic value of the property which is visible from the Point Reyes National Seashore, it was necessary to deny the permit. The property was subsequently purchased by the State and added to the State Park System.

Lighthouse Point.—The last open oceanfront parcel in the City of Santa Cruz was the proposed site of a commercial-recreational convention center. Because of the intense scale of the proposed development and its proximity to the best surfing area in northern California, it was necessary for the Commission to deny the permit. The site is now being purchased for a State Park.

Briggs project.—This proposal called for three single family residences to be constructed on a scenic 35-ace parcel overlooking Point Lobos State Park just south of Carmel. Because of the scenic value of the area, the Commission denied the project and the State purchased the land for park use.

All of these projects involved extensive public hearing, hours of Commission consideration, and lengthy negotiations with the developers. The process has never been easy and it is very seldom that any of the parties involved is fully satisfied with the outcome. But because of the presence of a strong coastal regulatory program in California, we have been able to protect coastal resources that would have otherwise been destroyed.

PUBLIC ACCESS

Because over 80 percent of California's 22 million people live within 30 miles of the coast, the provision of meaningful public access has always been one of the focal points of the California coastal management program. Under both the 1972 Coastal Initiative and the 1976 Coastal Act, the Coastal Commission has consistently required public access in areas where none had been required by local government. Access has been provided through the dedication of accessways and parks and through the reservation of potential park land for public acquisition. Examples of park dedications include significant urban parks incorporated into the Santa Monica and Redondo Beach redevelopment projects as a result of Coastal Commission permit requirements. Numerous public accessways have been dedicated as conditions of permit review along the entire coast, all of which will be described in a public access inventory. Operation of these accessways has been delayed until dedications are accepted by suitable agencies. A secure source of federal funds for accessways development, such as section 315 of the CZMA, would help solve this problem. Coastal Commission permit authority was also critical for protecting potential park sites in areas such as Tomales Bay in Marin County, Lighthouse Field in Santa Cruz, key bluff parcels near Carmel-Big Sur, and many areas in Southern California.

The provision of public access has also taken the form both of reserving oceanfront lands for visitor serving uses and of assuring that opportunities for recreation and housing are made available for persons of low and moderate incomes. Without such requirements, the pressure for high-cost coastal housing would have effectively precluded the majority of the public from using many areas of the coast. A hotel development in a publicly financed marina where heretofore only high cost overnight facilities were provided has been designed to also provide moderate cost rooms. Because coastal access also includes provision of housing opportunities for all segments of society, coastal housing projects are generally required to provide housing for persons of low and moderate income.

These requirements for assuring public access have been carried forward into the local coastal program process. By law, every local coastal program must contain a specific public access component before it can be certified. Even after permit authority is delegated to local governments, any permit for a project located between the first public road and the sea must make specific public access findings and all approvals for such developments can be appealed to the State Coastal Commission to assure that the access requirements are, in fact, carried out.

The impact of California's coastal program on park acquisition along the coast cannot be overemphasized. There is no doubt that the existence of California's

coastal management program has greatly stimulated public park acquisition. In fact, since 1972, public expenditures for coastal park acquisition has amounted to more than 10 times the total funds authorized for such purposes in the 25 years between 1947 and 1972.

Despite the great emphasis that California has placed on protecting and increasing public access to the coastline, the federal Office of Coastal Zone Management believes that even more should be done. But quite frankly, without more help from the federal government, we believe we are doing just about all that can be reasonably expected. We suggest that one means at your disposal for increasing public access to the California coastline lies in the reauthorization and funding appropriation for section 315(2) of the CZMA. This section, which provides grants for acquiring lands to provide access to coastal areas, has never been funded. As such, one of the main tools that Congress made available to state coastal managers to implement their programs has never been used. We recommend that you correct this deficiency by funding section 315(2).

CONSTRUCTION IN HAZARD AREAS

Many people in California, as elsewhere in the country, build homes in known hazard areas, especially along the coast. Yearly property losses resulting from high waves, shoreline erosion, flooding, fire, and landslides are in the millions of dollars. Often, the impact of such losses are reduced through public disaster relief programs at both the state and federal levels. In addition direct public costs are incurred at the time of the disaster (e.g., fire fighting, police protection, National Guard and public works department personnel assistance to shore up failing structures, etc.)

We do not take issue with these forms of public assistance in times of need. We do, however, question the wisdom of continuing public subsidy programs that encourage (or at least fail to discourage) new construction in known hazard areas. In a Coastal Commission staff study of coastal property losses during the 1977–78 winter, we found that "the public subsidy for repairing and protecting private property totalled close to $12,000 per damaged property".

The California Coastal Act requires that in order to qualify for a coastal permit new development must:

(1) Minimize risks to life and property in areas of high geologic flood, and fire hazard.

(2) Assure stability and structural integrity and neither create nor contribute significantly to erosion, geologic instability, or destruction, of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The California Coastal Commission has dealt with these provisions in a number of ways. Where the risks of property loss are great and potential adverse impacts to coastal resources significant, permits have been denied. In other cases, resiting and other conditions designed to minimize risks of loss have been attached to permits. Finally, the Commission has routinely imposed conditions whereby the permit applicant records a deed restriction waiving public liability in the event of property damage. At one time the Commission also required a waiver of disaster relief funds if there is a future loss. This latter condition created a storm of controversy and has now been dropped. Instead, the Commission directed staff to work with appropriate disaster relief agencies to identify program modifications which could be implemented so as to discourage continued construction in known hazard areas.

Because of these problems, we recommend that Congress take steps necessary to ensure that federal disaster relief program do not operate as an incentive to build in known hazard areas. This may require amendments to other laws. Such programs should render ineligible for public disaster relief funds property losses resulting from hazards known at the time new construction took place.

FEDERAL CONSISTENCY

Other than the financial support for the development and administration of coastal management programs, the only inducement for state participation in the federal CZMA is the authority for states to review federal activities and activities of private parties which require a federal permit including OCS plans to ensure they are consistent with the state program.

The California Coastal Commission has had 18 months experience in administering the federal consistency provisions of Section 307 of the CZMA. Our experience indicates that, with only minor exceptions which do not require legislative amendment, the consistency provisions are workable and are fulfilling the purposes intended by Congress when the Act and its 1976 amendments were adopted. Accordingly, there is no need to consider amendments to the provisions for state review of

federal activities, federal licenses and permits, and OCS exploration, development and production plans for consistency with the federally-approved California Coastal Management Program.

OCS consistency review.—The concerns raised by the oil industry in opposing the CZMA's consistency provisions for OCS activities have simply failed to materialize. Yet the American Petroleum Institute (API) and the Western Oil & Gas Association (WOGA) have jointly testified before Congress that unanticipated "serious practical and legal problems are arising from federal consistency procedures". API and WOGA continue to raise the false spectre, in spite of the Coastal Commission's record in consistency reviews, that "Section 307(c) consistency threatens to stop OCS development altogether".

In challenging NOAA's approval of the CCMP in the Federal District Court, API and WOGA argued that the consistency provisions could be used to impede energy development. The district court concluded, and last year the Ninth Circuit Court of Appeals agreed, that "whether the state will utilize its consistency power improperly to retard or halt energy development is wholly speculative". The Circuit Court noted that "no specific activities contemplated by the oil industry and no anticipated refusals to certify have been presented".

Although the oil industry continues to "cry wolf" to the courts and the Congress, the industry has been unable to point to a single instance where the consistency provisions have delayed even a single OCS project, let alone "stopped" the project "altogether" as alleged. The simple fact is that industry spokesman have consistently opposed meaningful involvement by states in consistency review of OCS activities affecting their coastal zones. This is clearly indicated by the industry's unbelievably brazen suggestion that the consistency provisions over OCS activities be deleted from the CZMA in spite of the Coastal Commission's record in reviewing OCS plans. We must also remember that in the event a state objects to a consistency determination for an activity described in the OCS plan, the CZMA already contains the built-in safeguard for override by the Secretary of Commerce.

The expeditious record of the Coastal Commission is processing consistency reviews indicates that the consistency provisions for OCS exploration and development plans under 307(c)(3)(B) works precisely as intended by Congress. The Commission has concurred in oil company consistency certifications for exploration plans in an average of less than one month per exploration plan. It is important that this exceptional record for review by the Commission staff and concurrence by the Commission be described completely: Chevron USA, 2 wells in San Pedro Bay, CC-1-78, November 14, 1979 (3 weeks); Chevron USA, 4 wells in Santa Clara Unit, CC-2-78, Dec. 12, 1978 (3 weeks); Exxon, 6 wells in Santa Ynez Unit, CC-1-79, Feb. 20, 1979 (8 weeks); Sohio, 1 well in San Pedro Bay, CC-2-79, Feb. 20, 1979 (3 weeks); Exxon, 11 wells in Santa Rosa Unit, CC-3-79, March 20, 1979 (4 weeks); Chevron USA, 2 wells in Santa Clara Unit, CC-5-79, October 3, 1979 (7 weeks); Mobil, 5 wells in Point Conception, CC-7-79, Dec. 5, 1979 (5 weeks); Shell, 2 wells in Santa Barbara Channel, CC-1-80, Feb. 21, 1980 (4 weeks); Diamond/General Drilling Ltd., NPDES permit, CC-2-80, Feb. 21, 1980 (2 weeks); Texaco, 2 wells in Santa Barbara Channel, CC-3-80, Mar. 5, 1980 (5 weeks); and Chevron USA, 3 wells in Santa Barbara Channel, CC-4-80, April 15, 1980 (8 weeks).

On April 10, 1980 the Commission objected to a consistency certification by Texaco for its Plan of Development in the Santa Barbara Channel. The objection was based solely on Texaco's failure to submit information needed for the certification review. The plan has not yet been approved by USGS and that approval is not contingent on Commission concurrence with the consistency certification; therefore, the Commission's action is not expected to delay the project.

In review these exploration plans, the Commission has required additional on-site oil spill containment equipment as a condition for concurrence. Through negotiations with the companies involved, the lessees have agreed to provide additional oil spill contingency equipment on-site during exploratory drilling. These additional controls, which present an insignificant cost increase to the companies and provide greater protection to the marine resources, would not have been provided but for the consistency provisions of the CZMA. Proposed regulations and the Draft Environmental Impact Statement recently published by NOAA for the proposed Channel Islands Marine Sanctuary have adopted these additional requirements.

The expeditious and thorough nature of the Coastal Commission's consistency review over these exploration plans has even been recognized by the Department of the Interior in its final regulations for OCS exploration, development and production plans. In responding to industry objections to a provision of the Commission's consistency regulations which requires an advance statement of a lessee's explorations intentions, the Department of the Interior noted that: "given the expeditious

consideration that exploration plans have received by the California Coastal Commission, this procedure seems to be working well." (44 F.R. 53689).

In addition, the federal consistency provisions can be a positive element to promote coordination and cooperation between state and federal agencies and industry in energy facility planning and crude oil transportation planning.

One of the main purposes of the federal consistency provisions of the CZMA, namely consultation and coordination of activities with an affected coastal state, could be better served if industry as a whole was encouraged to do more advance comprehensive planning for exploration and development of the OCS. Now, the approach generally followed is a piecemeal consideration of offshore oil platforms, onshore facilities and transportation scenarios. For example, in its consistency determination for the first plan of development submitted to the Coastal Commission, Union Oil Company proposed to construct a platform on the OCS and described a proposed onshore processing facility. The onshore facility would be large enough to process a much greater capacity than expected from the proposed platform supposedly served by the facility. Only upon further investigation was the Coastal Commission able to ascertain that the onshore facility was also to handle a second Union platform in the Santa Clara Unit approximately 10 miles away. This fact was not even mentioned in the plan of development. The Coastal Commission concurred in the consistency determination for Union's platform but expressly reserved the right to consider the sizing and location of the onshore processing facility and pipeline through State waters when reviewing the coastal development permit for such facilities after environmental analysis is completed.

Consistency review can also provide an essential mechanism for assuring that transport and processing facilities are developed in a way which maximizes their potential and avoids proliferation of unnecessary facilities.

For example, Union's new proposed platform in the Santa Clara Unit is only about four miles from Chevron's platform Grace, the onshore portions of which received a permit from the Regional Coastal Commission with the condition that the pipeline be sized to serve development from the Santa Clara unit. This condition was in furtherance of the CCMP's policy of consolidating facilities. In reviewing the consistency certification for Union's second plan of development, we will attempt to achieve coordination and consolidation for the transportation and on-shore processing of the offshore crude oil.

To date, the Coastal Commission has objected to the consistency certification or only one plan of exploration over a technical matter. There has been only one major area of disagreement concerning the federal consistency provisions for OCS activities and it involves the Department of the Interior and not any specific oil company. Consistency is needed so the Coastal Commission can object when a proposal would present damage to nationally important coastal resources.

Dispute with the Department of the Interior.—Much national discussion has focused on our mediation of the lease sale consistency issue. We have reached an impasse with the Department of the Interior concerning the application of the Section 307(c)(1) consistency provisions regarding federal activities which directly affect a State's coastal zone. Section 307(c)(1) provides that: "Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved State management programs."

Because the Department of the Interior and NOAA were unable to resolve the issue of whether that section applied to oil and gas lease sales, we wrote to the White House to request that the issue be resolved before Lease Sale 48 which was held last June. Unable to resolve the interdepartmental dispute, the matter was referred to the Department of Justice for a legal opinion.

In presenting its position to the Department of Justice, the Interior Department argued, among other things, that because Section 307(c)(3)(B) provides for state consistency review over exploration and development plans, Congress implicitly provided that Interior's pre-lease sale activities should not be subject to the consistency requirements of Section 307(c)(1) for federal activities. The Department of Justice rejected that contention and found that it was possible that some of Interior's pre-leasing activities would give rise to consistency problems which cannot be reviewed at the stage of OCS plan review or where such review would be too late. The Department of Justice concluded that the Section 307(c)(1) consistency requirement applies to Interior's OCS pre-lease activities which directly affect the coastal zone.

In spite of the Justice Department opinion, Interior sent the Coastal Commission a determination that the Final Notice of Sale for Lease Sale 48 did not directly affect the California coastal zone. The Coastal Commission believed that Interior was trying to circumvent the terms of the CZMA, the implementing regulations,

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and the Justice Department opinion and, therefore, requested mediation of the serious disagreement by the Department of Commerce. Thus commenced the first mediation proceeding ever under the CZMA.

Although the Coastal Commission presented an extensive legal, factual and policy position at the mediation public hearing in Los Angeles last September, Interior did not present a substantive position at the hearing. Only a week before the mediation conference, which was held in Washington, D.C. last October, did Interior's Solicitor issue a legal opinion which in essence supports the Department's negative determination on Lease Sale 48. Only under very narrow circumstances would Interior find that certain lease stipulations directly affect the coastal zone. The Coastal Commission is, however, particularly concerned with the selection and deletion process. In spite of NOAA's direction to federal agencies in its federal consistency regulations to "construe liberally" the direct affect test to "favor inclusion" of federal activities, the Department of the Interior has adopted a very narrow exclusionary view of the meaning of direct affect. Interior has essentially stated that the tract selection/deletion process will never be subject to consistency review.

Simply stated, California's position is that the Secretary of the Interior's final decision to offer hundreds of thousands of OCS acres for petroleum leases amounts to a massive "subdivision" of the OCS. This final notice of sale is the key OCS development planning decision which should be consistent with the federally-approved CCMP. In this Lease Sale 48 decision, the Secretary of the Interior was considering leasing tracts around the sensitive Santa Barbara Channel Islands and in the vessel precautionary areas just outside the Ports of Los Angeles and Long Beach. Based upon the Governor's recommendation, the Secretary deleted those tracts and the sale proceeded as scheduled.

While we have little substantive disagreement with Interior over Lease Sale 48, we believe that the precedent of establishing that the Final Notice of Sale is an activity which directly affects the Coastal Zone is of critical importance to future lease sales off of California and elsewhere around the nation. Our record described above indicates California's support of petroleum development in the national interest, but we are at the same time deeply committed to protecting our marine and coastal resources. We believe that subjecting the Final Notice of Sale to the consistency provisions, especially as to the tract selection and deletion process would result in clear guidelines on where offshore oil development can take place in an environmentally acceptable manner. Attaining a meaningful degree of certainty for where offshore oil development is consistent with the CCMP is our objective, and one which we view to be very much in the national interest.

Although the Secretary of Interior was generally responsive to California's comments in Lease Sale 48, we still believe that Section 307(c)(1) required that he should have certified that his decision was, therefore, consistent with the CCMP's policies protecting the Channel Islands marine mammals and sea birds and protecting vessel traffic from risks of collisions. Instead, he refused, claiming that the decision had no direct effect on California's coastal resources.

Subsequently, the General Counsel of the Commerce Department who presided over the mediation process found that the law contemplates that pre-lease activities should be subject to consistency determination, that this would not impose any undue burden on the Interior Department, and that Interior had adopted an extremely narrow and restrictive definition of "directly affect". Commerce Secretary Klutznick recently wrote to us expressing his conclusion that although the mediation had been unsuccessful, our dispute with Interior could be resolved through rulemaking to more clearly define "directly affect". We will, of course, participate in this rulemaking process while we pursue other avenues for resolving our differences with Interior.

General consistency review.—The consistency provisions have been working well with several other federal agencies. For example, a number of consistency determinations submitted by federal agencies during the past year have shown how the national interest could be accommodated and at the same time substantive changes made in the proposal activity to accommodate state and regional interests. One of the first consistency determinations reviewed by the Commission was for a proposed Channel Islands National Monument Headquarters and Visitor Center. The National Park Service proposed to build a 70 foot high pyramid-shaped building to house its headquarters and provide a visitor center. The Commission considered the national interest in developing a headquarters and visitor center, but noted that the project was completely out of character with the area and blocked coastal views. As a result of the consistency process and discussions between the Park Service and the Commission, the headquarters was scaled down, and located on a different site, and the visitor serving facilities were enhanced. In addition, an observation tower for visitors was added so that the project actually enhanced coastal views.

Another example of consistency review was the Navy's proposed "Satellite Earth Station", calling for the construction of a parabolic antenna on the Big Sur coast. While the Commission would generally have opposed the cosntruction of any kind of development along this highly scenic coastal area—an area which is itself a great national treasure—the Commission noted that the project was needed for national defense and consideration of the national interest allowed the Commission to approve this development. The consistency review process, however, resulted in the Navy's agreeing to reduce the height of the structure and provide vegetation to screen the antenna, thereby reducing the visual impacts; in addition, the Navy evaluated the use of different colors to minimize adverse visual impacts while maintaining the technical capacity of the antenna. It is doubtful that such efforts would have been made prior to the adoption of the consistency requirements (military installations not having been noted for their visual compatibility with surrounding communities).

Another consistency determination for the Park Service involved a review of the Redwood National Park Master Plan. The Commission objected to a part of the plan that provided for increased use and job opportunities for the lower income workers who would be brought to the area by the plan. The Park Service agreed to provide such low and moderate income housing (a policy under the Coastal Act) by making use of Air Force housing on a recently abandoned base nearly.

In most of the consistency determinations that the Commission has reviewed, the Commission has approved the federal agency's proposal without change. In general, the Commission has found that the advance consultation with the affected federal agencies has led to the development of proposals that are consistent with the California coastal management program, and at the same time carry out the national program being implemented. Where proposals have not been consistent with the coastal program, the Commission and the federal agency have been able to make needed changes without jeopardizing the national interest. Moreover, our record of review indicates that the Commission has been able to respond to the federal agency's consistency determination, hold a public hearing and issue a decision of concurrency or objection within 40 days for most projects.

In spite of our serious disagreement with the Department of the Interior over the interpretation of the provisions of Section 307(c)(1) as applied to lease sales, we agree with Interior's position in urging caution in making any major changes in the consistency provisions of the statute. The Department of Energy has also expressed its satisfaction that NOAA's consistency regulations are in accord with the requirements of the CZMA. DOE further testified that the consistency "requirements are not presently a significant constraint on energy facility siting and development".

NOAA regulations implementing the federal consistency provisions are in place, after a protracted rulemaking process, and are by and large workable. The Coastal Commission favors working with NOAA to iron out problems which arise during implementation of the consistency regulations through the rulemaking process if necessary. As we are all too well aware from past efforts, changes in the language of reasonable new statutes often leads to further unanticipated problems in interpretation and really do not "simplify" the process at all.

The mediation with the Department of the Interior was the first effort under the CZMA and, despite its apparent failure much can be learned for the future. It would be premature to amend the statute at this time when we are still working out operational details with various federal agencies on the implementation of the consistency provisions. Major amendments to the statute at this relatively early stage in the history of this unique experiment in federalism will require amended regulations from NOAA and would probably set implementation of the program back significantly.

At best, affected states, as well as public and private interests, would be subject to another round of protracted rulemaking. At worst further litigation would be engendered at some point in government affairs. We must work with an established framework rather than tinker with statutes before they have been fully tested in the real world.

CONSIDERATION OF THE NATIONAL INTEREST IN ENERGY FACILITY SITING

Many of the comments on the CZMA have focused upon the alleged need to clarify the requirement for consideration of the national interest in state coastal management programs. The Coastal Commission submits that the CZMA provisions regarding the national interest are sufficiently clear and require no amendment because they are workable.

In adopting the CZMA, Congress found that "there is a national interest in the effective management, beneficial use, protection and development of the coastal zone," (Section 302(a)), and declared that it was the "national policy to preserve,

protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations" (Section 303(a)). Thus the tone of the Act seeks to balance among competing interests in the coastal zone; and Congress wisely gave to the states administering approved coastal zone management programs the authority to balance these interests.

The national interest provision seems to be most controversial when it is applied to energy facilities; partly because section 306(c)(8) of the CZMA requires that each state "management program (must) provide for adequate consideration of the national interest involved in planning for, and in the siting of, facilities (including energy facilities in, or which significantly affect, such state's coastal zone) which are necessary to meet requirements which are other than local in nature. In the case of such energy facilities, the Secretary shall find that the state has given such consideration to any applicable interstate energy plan or problem."

NOAA's final program approval regulations implementing this provision require that the states, at a minimum, solicit views on what constitutes the national interest in particular types of facilities from the federal agencies most directly associated with the need for those facilities. The regulations acknowledge that there can be several sources which specify the national interest in a particular facility. the preamble to the regulation notes that "the predominant emphasis is on the federal perspective and input. In practice, states have tended to rely on statements of mission from federal agencies . . ." This is the practice followed by the Coastal Commission.

Although the statute clearly requires only "adequate consideration of the national interest," many voices of industry interpret that requirement as mandating the siting of energy facilities in the coastal zone. NOAA has clearly and correctly stated that the requirement to consider that national interest does not force a state to accommodate a particular energy facility in its coastal zone. Rather, the requirement is that the state assess the national interest in its planning and siting decisions with regard to energy facilities. In addition, NOAA has stated that natural resource considerations of a natural nature properly enter into the state's decision making on the location of facilities. Our program goes well beyond this federal requirement inasmuch as the California Coastal Act of 1976 requires that coastal dependent industry including energy related facilities be given precedence over other types of development on the coast—even when such development would have significant adverse environmental effects.

In adopting the Coastal Act, the California Legislature found that, notwithstanding the fact that energy resource development in the coastal zone may have significant adverse impacts on coastal resources, "it may be necessary to locate such developments in the coastal zone in order to ensure that inland as well as coastal resources are preserved and that orderly economic development proceeds within the state." Therefore, the Coastal Act contains explicit policies for the siting of such coastal dependent industrial facilities as oil and gas development, refineries or petrochemical facilities, thermal electric power plants, liquefied natural gas terminals and marine tanker facilities. Such facilities are encouraged by the Coastal Act to locate or expand within existing sites, but new sites may be permitted if alternative locations are infeasible or more environmentally damaging. To do otherwise would adversely affect the public welfare and adverse environmental effects are mitigated to the maximum extent feasible.

In spite of the fact that the California coastal program exceeds the federal statutory requirement for giving adequate consideration of the national interest, the oil industry challenged its approval in U.S. District Court and then appealed an adverse ruling to the Ninth Circuit Court of Appeals. As I told you earlier, the Ninth Circuit Court affirmed the District Court's findings that "adequate consideration" necessitates equitable balancing between State and national interests concluding that: "while the primary focus of subsection 306(c)(8) is on the planning for and siting of facilities, adequate consideration of the national interest in these facilities must be based on a balancing of these interests relative to the wise use, protection and other development of the coastal zone." (*API* v. *Knecht*, Ninth Circuit, December 19, 1979, slip opinion, at 14).

In upholding NOAA's approval of the CCMP, the District Court recognized that: "The California Program sensibly does not attempt to map out in advance precisely what type or size facilities will be found to meet these requirements in particular areas of its almost 1,000 mile coastline. Rather, by its very nature, the Coastal Act encourages plaintiffs with a particular facility in mind to address themselves to the standards set forth in the Coastal Act and to plan such a facility in cooperation and communication with the Coastal Commission from the inception. This approach seems consonant with the overall approach of the CZMA itself." (456 F. Supp. 925).

In light of their unsuccessful reception in the Courts, API and WOGA have turned to the Congress alleging that the CZMA has caused "critical delays and/or abandonment of major energy projects relating to the national interest." The Coastal Commission's experience in issuing permits for major energy facilities indicates that nothing can be further from the truth.

This will be abundantly clear when you become aware of the details of but a few of the permits issued for energy facilities, which demonstrate how California takes into account matters of national interest even when proposed facilities conflict with other Coastal Act policies. In each case, the Coastal Commission determined that although the proposed facility would conflict with certain coastal resources protection policies of the Coastal Act, the permits would be granted through the application of the provision relating to coastal-dependent industrial facilities. Since permit decisions of the State Coastal Commission constitute precedents, these decisions become, in effect, part of the CCMP and provide further guidance as to how the program and its policies are applied to specific situations.

Three permits of particular interest are: (1) The permit issued to Atlantic Richfield Company (ARCO) for the installlation of expanded facilities for treatment, storage, and transportation of petroleum products on the coast in Santa Barbara County; (2) A permit issued to Shell Oil Company for the installation of pipeline for transportation of petroleum products to its facilities in Long Beach; and (3) A permit issued to the Port of Long Beach/SOHIO project, for the construction of three oil tanker berths, oil storage tanks, oil pipelines, related ancillary facilities and dredging of the berth area, all in the Harbor of the Port of Long Beach.

(1) ARCO permit.—In issuing a permit to ARCO for an expanded oil processing plant for offshore oil production, the Commission found, among other things, that although the proposed development would not be consistent with a number of policies of the Coastal Act affecting views, recreation in the area, and protection against oil spills, it could nonetheless be permitted as a new or expanded coastal-dependent industrial facility. The Commission further found that denying the facilities would adversely affect the public welfare because up to 14 million cubic feet of gas per day would not be available to the Southern California Gas Company.

In short, the Coastal Commission determined that the proposed development would be inconsistent with a number of environmental protection policies of the Coastal Act; determined that the section of the Act relating to coastal-dependent industrial facilities should override the environmental policies; found that an alternative site would be economically burdensome and involve unreasonable time delays; concluded that deprivation of natural gas supplies to a utility company would be contrary to the public welfare; and, therefore, issued the permit.

(2) Shell Oil Co. permit for a pipeline.— As with the ARCO permit, the Commission made similar findings for a permit it issued to the Shell Oil Company for a pipeline. In the early stages of project development, Shell consulted with appropriate State and local agencies and proposed building a new pipeline from three new platforms in Shell's Beta Unit to the Port of Long Beach. It was clear the route chosen would avoid a productive reef area offshore Huntington Beach. The Commission found that although the proposed pipeline and associated tanker operations did not meet several policies of the Coastal Act, the development was permitted because it was consistent with the policies relating to coastal-dependent industrial facilities.

(3) Port of Long Beach/Sohio project permit.—Much national discussion has focused on the Sohio project. In light of the distorted and aggravated complaints voiced by the oil industry, it is important to recall that the Coastal Commission was the first agency to approve the Sohio project marine oil terminal in the Port of Long Beach on October 19, 1977—less than three months after Sohio filed its application. Thus, rather than imposing "major constraints on domestic energy development" as alleged by API and WOGA, the national interest provisions of the CZMA permitted the Coastal Commission to approve the project in spite of adverse environmental impacts. Thus, both the CZMA and the CCMP worked precisely as intended and neither blocked nor delayed the Sohio project.

The Sohio project permit is significant in several respects: (1) was a project which involved no local or even statewide benefits for California since its purpose was to use a California site to unload, handle and transfer Alaskan oil to the midwestern states, subjecting California to all of the burdens and none of the benefits; (2) it involved major and hazardous facilities and posed a number of serious risks to the California coast. The project proposed one or two additional large oil tanker trips along the coast through the Santa Barbara Channel. The Commission found that the oil spill response capabilities along much of the coast, particularly north of San Francisco, was inadequate to deal with large oil spills; and (3) the project was approved despite major environmental affects and risks that the project would pose.

Thus, there were few, if any, compelling reasons from the State's perspective for California's coastal management agency to approve the Sohio project to move Alaskan oil inland. But, the Commission recognized that there were strong national reasons to build the new terminal and pipeline. The project was approved after extensive hearings and review, with comments and participation by members of the public, industry, and government agencies. A special Commission briefing was held solely on the question of national interest after the staff consulted the U.S. Department of Energy and was informed that there were national energy and economic interests in facilitating the movement of Alaskan oil eastward. The Commission also considered statements in the President's National Energy Plan and other federal documents supporting the Sohio project. The Commission evaluated alternative coastal sites, and weighted the adverse impacts of the project against federal statements on national interest, and approved the project. It is important to recognize that the Sohio project was approved primarily because of natural interest considerations. Because the facility was needed, and there was no less environmentally damaging alternative site, the Coastal Commission issued a permit.

The Coastal Commission continued its involvement in the Sohio project with the subsidiary issue of whether the large oil storage tanks should be on a pier near the tanker berths or should be a few miles inland to avoid unnecessary use of filled port land. Within several weeks after SOHIO claimed that it was essential to the project that the tanks be on the pier, the Commission approved an amendment to the permit in March 1979.

From the above discussion, it should be clear that the CCMP has gone even further than required by the CZMA with regard to consideration of the national interest. It is an indication that the CZMA national interest provisions are working precisely as intended. Not only has California considered the national interest, but it has acted in the national interest in situations where its own local or statewide interests would dictate otherwise.

In addition to accommodating the national interest in issuing permits for energy facilities, the Coastal Commission has been involved in several cooperative efforts with industry and local government in considering the use of pipelines to transport oil from the federal OCS to onshore processing facilities and to refineries. Chevron obtained approvals for new pipelines from its Santa Clara Unit at the eastern end of the Santa Barbara Channel after Santa Barbara County and the Coastal Commission jointly evaluated the project. The project involves construction of nine miles of pipeline to connect with existing oil pipelines to Los Angeles. This new line eliminates the need for oil tanker traffic at an oil terminal next to Carpinteria State Park. Both the Shell-Beta pipeline discussed previously, and this Chevron pipeline are models of expendiated, coordinated permit review by state and local agencies for projects of national concern.

In the western Santa Barbara Channel, the Exxon Corporation is proceeding with a federally approved offshore floating marine oil terminal just outside the state three mile boundary. This is because Exxon chose to reject a 1975 coastal development permit which we granted for an onshore terminal. That permit included the condition requiring that if pipeline transport to Los Angeles was found to be feasible, Exxon would shut down its marine tanker terminal and construct a pipeline for transport of the oil. Such a pipeline would enable all western Channel offshore oil production to be transported in an environmentally acceptable manner. In spite of the clear record that Exxon rejected the Coastal Commission permit, API and WOGA have stated that "the onshore alternative was rejected by (the) State's Coastal Commission in 1976". NOAA's Final Environmental Impact Statement for approval of the CCMP lists the Commission's action on the Exxon project as "approved (with conditions)" and then notes that "initial conditions were unacceptable to Exxon; conditions being renegotiated with assistance of Joint-Government/Industry Task Force".

After the permit rejection, Santa Barbara County and the Coastal Commission developed the Joint-Industry/Government Pipeline Working Group to study pipeline feasibility, in case future oil development in the area or a change of policy by Exxon brings the issue again before the Coastal Commission and County. This cooperative study has proceeded with the participation of Exxon, ARCO, Chevron, and other oil companies and with the County, Coastal Commission, Governor's Office of Planning and Research and other State and local agencies. The Coastal Commission has used more than $100,000 in Coastal Energy Impact Program grants for engineering and air emissions studies. The Group's work has laid the framework for addressing the next proposed oil development in the western Santa Barbara Channel.

The Interior Department, the Governor and the Coastal Commission have evolved the policy that the most desirable way to enable both offshore oil production to proceed as needed and to transport the oil to refineries, is by pipelines. Santa

Barbara County's Local Coastal Program will encourage this policy by making oil pipeline a permitted use in nearly all land use classifications and by specifically designating the Las Flores Canyon area as the place for consolidating offshore oil and gas processing facilities and for serving as the starting point for a pipeline. Therefore, coastal management at all levels of government is setting clear standards for future development of the most productive offshore petroleum province off California, the Santa Barbara Channel.

Had the Coastal Commission had consistency review at the time of the Exxon project, the government industry partnership for attempting to deal with complex energy problems, such as transportation of oil, could perhaps have been forged earlier.

ELECTRIC POWERPLANT SITING

The Coastal Commission has been involved in electric power siting in three ways: permit actions, designations of coastal ares where new plants cannot be sited, and participation in the California Energy Commission's siting process when coastal sites are being considered. The result of these activities is that the electric utilities and the Energy Commission have clear determinations on where new sites can and cannot be approved on the coast.

PERMIT ACTIONS

From 1973 the Commission had permit authority over proposed new powerplants in the coastal zone. The Commission approved all three proposals during that period, the extremely controversial construction of two large units on the beach at the San Onofre Nuclear Power Plant in northern San Diego County. While the Commission was preempted from regulation of nuclear safety issues, the proposed construction involved excavation of coastal bluffs and a high wall bisecting San Onofre Beach State Park. Nevertheless, the Commission approved the project, with a number of conditions to protect beach access and the marine environment.

The 1976 Coastal Act revised the Commission's permit authority over new plants by consolidating the Coastal Powerplant siting authority with that of the California Energy Commission, which was created in 1975 to assess the need for new plants and to approve new plant sites. At the same time, the Coastal Act gave the Commission the authority to designate specific mapped coastal areas where the Energy Commission could not approve new plants.

DESIGNATIONS EXCLUDING POWERPLANT SITINGS

In November 1978, the Commission designated specific coastal zone areas inappropriate for new powerplant sites. These areas include parks, wetlands, habitats of rare and endagnered species of wildlife, special agricultural communites, and special scenic areas. The boundaries of these resources are clearly mapped for the entire length of the coastline. The purpose of the designations is to prevent new powerplant siting where it would prevent the achievement of the objectives of the Coastal Act. In the undersignated coastal areas, the Energy Commission may approve new sites with Coastal Commission participation in the siting decisions. The Coastal Commission also left areas around existing powerplants undesignated to allow for reasonsable expansion.

The Commission was concerned that the designations not unreasonably restrict the ability of the electric utilities to propose to the Energy Commission new sites that have access to ocean water for plant cooling. Therefore, the Commission has provided the Energy Commission with a Coastal Energy Impact Program grant to assess the effect of the designations on the coastal siting option. Phase I of the study addressed existing coastal powerplant sites. There are 19 existing coastal powerplant sites and another eight on San Francisco Bay. The basic thrust of California's coastal protection policy is that the electric utilities first consider expansion of existing sites, before proposing new coastal sites. The Energy Commission staff study found the Commission's designations provide the opportunity for expansion at existing sites for 4,000 to 10,000 megawatts of new generating capacity.

Phase II of the Energy Commission study will assess the feasibility of siting new plants in the undesignated coastal zone areas. When that work is completed in late 1980, the information can be evaluated against the Energy Commission's assessment of the new for new plant sites over the next twenty years. Because both the Energy and Coastal Commissions are involved in this planning effort, coastal management is giving clear signals to the electric utilites on where to concentrate new siting studies.

SITING PROCESSES

To obtain approval for a new powerplant in California, an electric utility must submit three or more alternative sites to the Energy Commission. The Energy Commission must find two sites are acceptable, and the utility can then submit one of those sites for final certification in the second stage of the approval process. Southern California Edison recently submitted four sites to the Energy Commission for a new oil-fired powerplant. Two were expansions of existing coastal plant sites at Ormond Beach and Huntington Beach. The Coastal Commission was a formal intervenor in the proceedings and recommended conditions to the Energy Commission to protect coastal wetlands and parks near the two sites. The Energy Commission found the Ormond Beach coastal site the most acceptable site and an inland site at Lucerne Valley second and acceptable. Huntington Beach was found unacceptable due to air quality protection considerations and constraints on converting a plan there to coal use in the future.

COASTAL ENERGY IMPACT PROGRAM

California has found the Coastal Energy Impact Program (CEIP) to be both helpful and effective—even essential—in dealing with coastal energy developments. Although it is not specifically before you for reauthorization, the program is in jeopardy. The administration has proposed severe reductions in the Coastal Energy Impact Program for both the 1980 and 1981 fiscal years. The reductions would involve rescinding earlier appropriations, deferring 1980 funds, and reducing the appropriation level for 1980.

Offshore oil leasing brings more than $4 billion into the federal treasury each year. But the impacts of offshore development—the oil spills and air pollution, the services needed for the workers—must be borne by state and local governments. Under the CEIP, the federal government is a partner with the states in sharing the cost of addressing these impacts. In California we have more than $35 million in CEIP loan requests and $1.5 million in grant requests that cannot be approved if the Administration's proposed budget cuts are accepted.

We find it particularly incredible that the Administration would propose cutbacks in the CEIP at the same time that it is calling for an acceleration of OCS development through its Five Year OCS Leasing Schedule. Without CEIP assistance, states cannot cope with the multitude of anticipated impacts resulting from OCS development, oil tanker traffic, and other energy development.

Congress wisely allowed for the carryover of CEIP appropriations so that funds would be available when the impacts occurred. Under this provision, we estimate that the $20 million which was appropriated but deferred for Section 308(b) grants in fiscal year 1980 will be needed in fiscal year 1981. Therefore, we have urged that the 1981 appropriation not be reduced by this amount. Rather, we have recommended that for fiscal year 1981 $27.75 million be appropriated for Section 308(b) (formula grants), and $8.6 million of Section 308d(1) loan funds be reprogramed for planning, environmental, and OCS participation grants under Sections 308c(1), c(2), and d(4) respectively.

Funds were awarded by the California Coastal Commission, which administers CEIP for the State, for (1) preparation of energy facility siting in the Local Coastal Programs; (2) analyzing impacts and proposing mitigations including regional pipeline transportation plans, for offshore oil and gas developments; (3) determining where electrical power plant can or cannot be built; (4) wetland and other sensitive resource protection and preservation; (5) minimizing risks and safety problems in port areas where major energy developments are concentrated; (6) improving marine oil terminal load and off-loading operations and associated oil spill contingency plans; and (7) incentives for better public coastal access facilities in areas of highest energy development including acquisition, construction and maintenance of access paths.

We have found CEIP to be sufficiently flexible to meet the needs of California. Local governments have found the program particularly useful in increasing their awareness and involvement in the OCS leasing program. The use of CEIP funds for this increased participation was made explicit when Section 308(c)(2) (OCS State Participation Grants) was added to the CZMA in 1978.

It is important that CEIP remain part of the CZMA. It should not be divorced from the coastal management program and put into another federal agency. The CEIP funding incentive is important in helping pursuade states to develop coastal management program. Also, CEIP was created primarily to address increased OCS development and associated energy facilities. Other energy development problems, such as those within the Great Lakes States, should be funded through a new grant

source within the CEIP or an entirely new program more specifically oriented toward their needs.

In conclusion, California views CEIP as an important component of its coastal management program and would like to continue to benefit by it.

PORT PLANNING

The California Coastal Act contains special provisions governing planning for the ports of Hueneme, Los Angeles, Long Beach, and San Diego. These four ports, together with the Ports of San Francisco, Oakland, and Richmond (which are BCDC's jurisdiction) constitute the major international ports located in California waters. The California legislature found in the Coastal Act that "the ports of the State of California constitute one of the state's primary economic and coastal resources and are an essential element of the national maritime industry."

The Coastal Commission has been able to assist the ports and federal agencies, particularly the Coast Guard, in making ports safer places to conduct commerce. For example, ARCO has operated an old marine oil tanker terminal on a narrow channel in the Port of Long Beach that is the entrance to the inner harbor area. Oil tankers berthing there were becoming so large that pilots would not bring other ships to or from the inner harbor when a large tanker was moored there. In partnership with ARCO, Shell Oil Company, asked the Commission for a permit to build a large new pipeline to the terminal. This 42-inch diameter line would allow the tankers to be unloaded faster. In addition, the new line would connect with ARCO's Four Corners Pipeline and would serve to move some Alaskan oil eastward from the West Coast, a "mini SOHIO Project". The Commission approved the pipeline, but placed a condition on that approval that Shell and ARCO build a new tanker berth set back off the Channel, to provide more maneuvering room for vessels going to and from the inner harbor.

This condition for a new terminal was developed with the assistance of the Port of Long Beach and the Coast Guard. Both agencies wanted a new terminal and an unobstructed Channel, but they did not have the regulatory authority to require one. ARCO and Shell quickly designed a new terminal, and the Commission approved it in December 1979. This action was part of the Commission's overall policy of encouraging modernization of outmoded port facilities.

The Coastal Commission is serving as an integrating force to make the Ports of Los Angeles and Long Beach safer. The explosion of the tanker *Sansinena* in Los Angeles Harbor in December 1976 sensitized the ports and adjacent neighborhoods to potential hazardous operations in the Ports. In approving the Port of Long Beach Master Plan the Commission withheld approval of hazardous operations and facilities until the Port completes a Coastal Energy Impact Program—funded risk management plan. The two ports have joined together to conduct this work, which involves inventorying hazards in the ports, assessing the risks the hazards pose to public safety and port operations, analyzing methods and equipment available now to deal with the hazardous cargo transportation and storage, and recommending improved measures to minimize risks. The risk management planning involves the ports, the Commission, the Coast Guard, the local fire departments and many other agencies with diverse responsibilities. Because coastal management in California involves permit authority, planning responsibilities and the CEIP grant program, the Commission has been able to involve the ports and other agencies in comprehensively addressing risk management. The hazards inventories have been completed by the ports. The Commission awarded the Phase II CEIP grant to the two ports in January 1979.

FISHERIES MANAGEMENT

The Commission has continuously been involved in two aspects of fisheries management and development, the protection and provision of onshore support facilities and berths for commercial fishermen and the protection of coastal spawning and habitat areas for fish and invertebrates that support commercial fisheries. The Commission is now formalizing relations with the two fishery management agencies, the Pacific Fishery Management Council and the California Department of Fish and Game.

Fishing facilities.—The Commission has consistently prevented removal of commercial fishing facilities and has made provision of added facilities a condition of approval for new marinas and for port plans. For example, the South Central Coast Regional Commission issued a permit for 748 boat slips to expand the Channel Islands Harbor, with the condition that 60 slips be reserved for active commercial fishing vessels. With Ventura County, the Commission is pursuing a Coastal Energy Impact Program loan of $450,000 to assist construction of these commercial fishing slips. CEIP funds are suitable because the nearby Port of Hueneme uses much of its

COASTAL RESEARCH

Because of the complex physical processes along the California coast, the intense pressure for development, and the numerous competing uses and interests for the remaining resources, additional research and studies are often required before we can come to conclusions on the proper use of coastal land and water areas. In our seven years of experience we have found that other research programs, most notably Sea Grant, are oriented to scientific enquiry and are not focused on specific problems, or the rather mundane, yet extremely important, issues we face as coastal managers. As a result we have been forced to use a portion of our Section 305 and 306 fund to support needed studies.

The coastal program in California is oriented to making decisions rather than dragging out matters while waiting for additional research. In our experience we have found that this is a valid and effective approach. In some instances we have to request more study and in many cases these studies have not been carried out, or have resulted in planning delays. Our current special studies budget which is $150,000 per year represents only 1.5 percent of our entire budget. We believe this amount should be increased to at least $600,000 per year.

The California Coastal Commission has not spent much effort or money on training. However, as our program returns to local government we will undoubtedly have to convene training sessions for local government staff. These sessions will be required to explain some of the complexities of the process, the source of information. Planning and conducting these sessions as well as carrying out needed research projects could be accomplished if funding were provided to implement Section 310 of the federal Coastal Zone Management Act, which authorizes for grants to coastal states to carry out research, studies and training. Therefore, we urge that you both reauthorize and fully fund this important provision of the CZMA.

PROGRAM EVALUATION

Section 312 of the federal Coastal Zone Management Act properly calls for ". . . a continuing review of the management programs of the coastal states and the performance of such states with respect to coastal management." Based on our experience, nothing has caused the Office of Coastal Zone Management more difficulty or resulted in less of an achievement than it attempts to carry out this requirement.

The difficulty stems from two factors: first, the CZMA rightfully does not impose decisions or standards about how coastal lands and water should be used. Instead, it correctly offers help to states that want to set up a process or framework making decisions and establishing standards of their own. As such, there is nothing in the law which can be used as a milestone for determining the success or failure of state programs. So OCZM has been forced to develop its own standards. The second factor causing problems in program evaluation stems directly from the first. Just as there aren't any standards for program evaluation, neither are there any readily available units of measurement that can be used to demonstrate the achievement of a state program. In many cases, coastal management is most successful when something doesn't happen. A wetland isn't filled. An accessway isn't closed off. A hillside isn't graded. Ultimately, the program is truly successful when these things aren't even proposed. Faced with the impossibility of documenting things that didn't happen or or weren't even suggested, program evaluators naturally focus on counting things that did happen, even if they may not be the best measure of program success. The number of local coastal programs approved becomes more important than the quality of local programs. The number of permit applications approved becomes significant although it is not clear whether a high approval rate means that the program is succeeding in getting development to meet the standards of the coastal program through permit conditions or failing to be sufficiently tough by denying permits to questionable developments.

Given these problems, there is little wonder that OCZM has had great difficulty in coming up with a sound program evaluation methodology. At first, OCZM wanted to determine whether California was accomplishing what we had set out to accomplish. But by the time the actual evaluation took place, OCZM seemed to be more interested in trying to figure out just what we should be attempting to accomplish. That didn't work out too well, so now OCZM has settled on trying to determine whether California is addressing the so-called "national issues" that have been culled from various phrases and subsections of the CZMA. The exact nature of the issues has been refined, revised, changed, and restructured over the past year to the point where we have no idea either what will be expected of us next year, how OCZM will figure out what it believes Caifornia should be doing, or whether federal funding will have to be diverted from completing the work that OCZM once approved to complete the work that it finds more fashionable this year.

Despite these problems, we believe OCZM and the states should be allowed to develop a sound program evaluation process that can accommodate the many differences that exist in state programs. It is necessary to recall that the federal coastal act sets up a voluntary program. It is naive and unrealistic to expect that states will enact laws or impose restrictions that are politically unacceptable to the state just to attain additional federal funds. Therefore, at this time tying federal funding to new program approval standards, evaluation criteria, or an inexact notion of what is a national issue would discourage more states from participating in the program than it would encourage states to "improve" (in the eyes of OCZM) their approved programs. States need some assurance that federal funding will be available to carry out the programs approved by NOAA. Accordingly, we urge that you look quite skeptically at any proposals to increase the portion of state assistance that is tied to national issues as well as any suggestions that "tough" national standards should be mandated into the voluntary CZMA. If you conclude that program approval and evaluation should be tied to issues of national significance, we believe that you should take a very broad view of what is nationally important and allow each coastal state, subject to the approval of the Office of Coastal Zone Management, to determine which nationally-important issues must be addressed in the implementation of its management program. The commitment of federal funds to the state CZM program should not thereafter be subject to reductions tied to administrative changes or prioritization of the issues.

PROPOSED AMENDMENTS TO THE CZMA

Drawing on our experience in running California's coastal management program, we have reviewed the two bills introduced in the House of Represenatives to reauthorize and amend the CZMA and would like to offer your comments for your consideration.

H.R. 6956.—As you know, this is the Administration's proposal which was introduced by Congressman Murphy.

In brief, the Administration's proposal calls for (1) continuing the national coastal management effort that was established in 1972 by reauthorizing the CZMA without major substantive change (such as making the law mandatory rather the voluntary); (2) reducing the level of federal financial assistance to states over time, while at the same time, trying an ever-increasing portion of the federal funding level to "activities leading to significant improvements" in state programs for the purpose of addressing newly defined "national needs"; and (3) eliminating those sections of the law that have never been funded.

We believe this proposal represents an honest attempt by the Administration to improve the federal coastal program based on its assessment of the problems experienced in administering the CZMA since 1974. However, the Administration, which has apparently relied on its experience in carrying our mandatory programs in deciding how to handle the voluntary coastal program, has put forth a proposal which, in the long run, will probably accomplish precisely the opposite of what the Administration is trying to achieve.

In enacting the CZMA in 1972, the Congress set out very broad goals and general policies for how it expected states to handle the complex issues and intensive conflicting demands being placed on our nation's coastal zone. Absent any precise standards for program approval, the federal Office of Coastal Zone Management has, quite correctly, approved state management programs each of which is unique in the issues they address, the institutional arrangements used to enforce the programs, and the "toughness" of the program policies. This flexibility has also permitted OCZM to approve programs that may be of marginal quality in an effort to demonstrate to the Office of Management and Budget and the Congress that the federal coastal program is working in terms of getting state programs approved.

This demonstration of success is, of course, necessary if the CZMA is to be reauthorized. And the reauthorization is needed so that states can complete the institutionalization of their programs, and, in some cases, make improvements to bring them up to the quality that CZMA would like. Accordingly, as part of the reauthorization, the Administration is proposing new standards to guide states toward making the needed improvements based on OCZM's seven years of experience in trying to determine just what constitutes an acceptable state coastal program.

Unfortunately, the approach proposed by the Administration for ensuring that the improvements is very heavy-handed and has the potential for a good deal of administrative abuse. It also seems to be based on the classic governmental misconception that once a program is established, the cost of running it will be a small fraction of what it cost to develop it. The error of this assumption can be seen by looking at California where it cost about $12 million to develop the state's coastal

management program and operate an interim regulatory system between 1973 and the end of 1976, and $34 million to implement the program since the beginning of 1977. Nevertheless, the Administration is proposing that not only that federal assistance be phased down, but also that the limited federal funds be used to make improvement in addressing needs that were neither explicitly considered when states were developing their coastal programs nor were legally considered when OCZM approved the programs under Section 306 of the CZMA. In other words, to continue participating in the federal coastal effort states would have to use the decreasing level of federal assistance to meet new and increased federal standards. The cost of implementing the programs approved by OCZM under the standards of the 1972 CZMA would thus presumably fall upon the states.

Given this situation, we suspect that in these fiscally frugal times, states will be more inclined to either drop out of the federal program and carry out their state efforts without federal assistance (and interference) or, more likely, abandon their coastal management programs entirely. In short, instead of improving the nation's coastal protection measures, the Administration's proposal would probably result in some modest improvements but major deterioriation in those states where the limited federal funds are not sufficient incentive to remain in the program.

We certainly are not suggesting that improvements in state programs are not needed. But these improvements should be built upon the foundation of the approved state programs, and not accomplished at the expense of allowing this foundation to crumble. Instead, states should be assured of adequate funding to carry out their approved management programs. If the Congress finds that substantive improvements are needed in the programs that the federal government has already found meet the standards of the CZMA, additional funding should be provided as an incentive to states to make the desired improvements.

Finally, we believe the Administration's proposal to eliminate those sections of the law for which funding has never been requested by the Administration is the ultimate of circular logic. We are most particularly concerned about the proposal to eliminate the authorization of beach access funding from Section 315(2) while at the same time, suggesting that public access to the coast is one of the national needs where states are expected to make significant improvements. Beyond the glaring inconsistency of embodying these two ideas into one proposal, this is further evidence that the Administration has lost sight of the fact that the federal Coastal Zone Management Act sets up a voluntary program that requires a carrot and stick approach to implement. The Administration seems to be suggesting that the carrot be slowly allowed to wither away and the stick replaced with a club.

H.R. 6979.—The Coastal Management Improvement Act of 1980, which Congressmen Murphy, Studds, and McCloskey have introduced as H.R. 6979 clearly demonstrates a commitment to improving state coastal management programs and provides the necessary incentives to states both to continue their participation in the federal coastal management program and to make necessary improvements in state programs to address national concerns. It would also provide a much-needed backstop to protect nationally important coastal resources through direct federal action where this protection is not provided through state efforts. Although we have several comments, concerns, and suggestions about specific sections of the bill, these should not detract from the overall support we offer for the enactment of H.R. 6979.

Following are our comments on the specific sections of the bill.

Section 303 (congressional policies).—Revised Congressional policies based on our experience in coastal management over the past seven years are entirely in order. We support the proposed amendments.

Section 304(2) (coastal resource of national significance).—The definition is somewhat vague and should be clarified. It does not provide sufficient specificity in locating CRNS's.

Section 306(a)(3) (program improvements).—Tying the new Congressional Policies to Section 306 funding has the same conceptual weakness that is found in H.R. 6956. In essence, what is proposed is that states with approved programs are being required to take a portion of the funding that is needed to carry out the activities in their approved programs and to instead use the funds to make "significant improvements" in addressing new requirements. We believe that if these new requirements are in order, the federal government should be willing to provide additional funds to handle the new requirements. Accordingly, it might be better to allow (or require) that some portion of new Section 306A funds be used for the purpose of making these improvements so that states could be assured of being able to fully implement their approved programs.

We suggest that this section be revised to allow the Secretary to determine that an approved program is already consistent with the new policies, and that no improvements are necessary. Moreover, the term "significant improvement" needs

definition. If it is interpreted to mean that only new or additional activities are considered "improvements," states may find it difficult to complete projects that last longer than a year or to carry out on-going management activities.

Despite these problems, the 30-percent limitation is a great improvement over the unlimited ceiling called for in H.R. 6956. However, if the 30-percent requirement is retained, it should be made clear that it applies to the cumulative spending on all of the coastal management objectives. In its experiments in addressing so-called "national issues," at one point NOAA suggested that 20-percent of the California grant should be used to address one small aspect of the four general issues NOAA had identified as being important that particular year. We recommend that you guard against this sort of administrative mischief through clarifying language.

Section 306(b)(i) (protecting coastal resources of national significance).—It is entirely proper for the Congress to call for the identification and protection of nationally important coastal resources. It is also quite appropriate for the federal government to carry out its activities in a manner that will protect these resources if a state does not do so. However, it would be impossible for the federal government to identify these resources and prepare sound regulations for their protection in the one-year period proposed. Because the designation of the precise boundaries of a resource area will be of extreme importance to many interests—and particularly to the property owners in the area—a great deal of controversy will accompany these designations. Similarly, the regulations prescribing the protection measures applied to each resource area or even each type of resource area will require numerous public hearings, extensive review, and probably many revisions. It will be simply impossible to carry out these activities from a base in Washington, D.C. Field headquarters will have to be set up in each affected Coastal state, staff hired, office and meeting rooms rented, and research programs intitiated. The logistics of this would be overwhelming for a small agency like OCZM, especially if more than one state were involved. Therefore, if this section is retained, expect that the 1985 deadline will be substantially augmented.

Finally, we recommend that if a coastal state subsequently amends its programs to identify and protect coastal resources of national significance, its program should be required to provide "equal or greater protection of the resources" rather than be in "substantial agreement" with the federal regulations as proposed. Having experienced the compromise that was necessary to extract the Section 307 regulations from the grips of the federal agency review process, it is quite possible that federal regulations to protect the resource areas could have some serious weaknesses. States should not be bound by these shackles in developing their own protection measures.

Section 306A (resource management improvement grants).—This section offers the necessary incentive for states to make any needed improvements to their programs. It offers a great deal of flexibility to states for handling the unique needs that exist around our nation's coastline, and therefore, we fully support it.

Section 307 (Federal consistency).—Despite California's total dissatisfaction with the mediation of our dispute with the Department of the Interior over OCS lease sales, we endorse retaining Section 307 without amendment. We will attempt to resolve our problems through other avenues.

Section 311A (citizens suits).—Citizens in California have standing to seek legal recourse against California Coastal Act violations under State law. We believe that similar conditions exist in most other states. Therefore, this section has the potential of causing some confusion without providing significantly greater protection of coastal resources. However, if you find that other states do not afford their citizens the same legal remedies California does, we would support this section.

Section 312 (program evaluation).—The section seems to incorporate most of the suggestions we and other states have made as a result of suffering through the evaluation process. As such, we highly support it.

Section 315(2) (island preservation).—Although Section 306A funds can be used for acquiring beach accessways, we recommend that either Section 315 be incorporated into Section 306A or that beach access acquisition be retained as an authorized use of Section 315(2) funds. There seems no reason to make the distinction between eliminating one important use of the funds—public access—and retaining the other island preservation.

Section 318 (appropriations).—We fully endorse this section and, in particular, the reauthorization of Section 306 for eight years without the phase down of funding called for in HR 6956.

In conclusion, let me reiterate that on the whole, we will strongly endorse HR 6979. Unlike the Administration proposal, it is built upon an appreciation that for a voluntary law to be successful, there must be incentives for participation. Since 1972, these incentives have been financial assistance to states and the promise of "consistency" of federal agency decisions with approved state programs. The Admin-

istration's reduction in appropriation levels for the Coastal Energy Impact Program and the phase down of funding levels called for in its proposal, coupled with the unsatisfactory experiences we have had in the Administration's handling of consistency as it relates to OCS lease sales, leads me to conclude that the Administration no longer believes these incentives are necessary. Based on California's experience without these incentives, the objectives of the federal Coastal Management Program will not be achieved.

Senator STEVENS. Gary Greenough from Alabama.

STATEMENT OF GARY GREENOUGH, CHAIRMAN, ALABAMA COASTAL AREA BOARD, DAPHNE, ALA.

Mr. GREENOUGH. Mr. Chairman, it's a pleasure to be here today. I have submitted a written text, and I will not refer to it.

I will simply focus on two things. First of all, one is rather unusual. That's why I bring it up. It's an unusual situation when a person who is in local government tells an elected Representative of Congress that he appreciates the way folks in certain Federal agencies have worked with him and the system. That's what I have to say to you today, and particularly Jim Murly and the folks at the Coastal Zone Management Office here in Washington have been of tremendous assistance to us in Alabama, and we appreciate it, and I want you and the members of the committee to be aware of that. They have really been exceptionally good and helpful to us.

Senator STEVENS. That's good. That's been our impression, too.

Mr. GREENOUGH. I could elaborate beyond that point, but I won't, to save time.

The other thing I wanted to say somewhat scares me, being from south Alabama, but I'm going to say that I think I agree with the distinguished Congressman who spoke earlier from Massachusetts. If that word gets out in Alabama, I'm probably in trouble, but I think he's probably right.

The House version of the bill, the House amendments, and the whole package that they are working on is basically what I would suggest you ought to proceed with. I think that is the consensus of the Senate already. I would simply add my voice to what's already been said, and urge you to continue in that vein.

This is a relatively new program. The whole essence of this thing comes down to a way of, at least as we perceive it on the local level, a way for the local governments which, you know, get all the droppings, you see. If the State, for example, doesn't do a very effective job in the penal institutions, then the criminals don't go harass the State legislature, what they do is rob the citizens in the city. We deal with them in our police department, and on and on and on the circle goes.

I'm sitting here listening to some of the questions that your colleague was asking earlier, and then some that you have been asking. The same kinds of questions we ask, and quite frankly, my personal involvement in coastal zone program in Alabama was based on an idea of willingness at the local level to deal with a whole range of policy issues in our geographic context, rather than deal with them categorically or ipso facto.

This program, as I see it, and this is perhaps where consistency is important, the Federal agencies—now I'm sure you're aware of this, Senator—like to tell other folks how to do things. But they don't like to play by their own rules many times.

Senator STEVENS. I've discovered that.

Mr. GREENOUGH. Yes. So, you know, this program puts us all in the same box, so to speak. And before the game starts, we are all playing by the same rules.

Senator STEVENS. I notice you didn't say anything about 315 in your statement. Is that an intentional omission?

Mr. GREENOUGH. No, sir. I had intended to bring it up here today, but the only thing I will say there is that if particular recreational facilities are being deleted, or section 315 is to be deleted entirely, then that is going to make section 306(a) of tremendous significance to us.

I suppose it's kind of a tradeoff situation. My job in the government of the city of Mobile is that of finance commissioner, so I'm not going to place myself in a position of saying that the Members of the Senate or the Congress or of the administration ought to ignore the economic facts of life.

I think it is in the interest of every American that you all try to balance the Federal budget and try to get the Federal house in order and put it back in place as a government, and so I am not going to run up here in one little area or another and say I want what I want, and y'all do it elsewhere.

But this program, I think, is a significant new thrust and does present the opportunity for the American system of government to work. I think it is workable, and I think it ought to be given the opportunity to prove itself. And then if it doesn't work, if it's not going to be successful, then let's all be big enough and honest enough to junk it. But right now I think it's too early to make that judgment.

My personal view is I think it's going to work.

Senator STEVENS. Why shouldn't we reauthorize 315 and the broad powers that are involved in the original act or amendment and make the money available on an unearmarked basis to State and local governments, so you can decide how to use it?

Mr. GREENOUGH. I think you should. I would encourage that, but that's a prerogative, I think, that is yours, and the other Members of the Congress to determine. I would encourage that.

All I am suggesting is that I think you have a right to demand of those of us in local and State government to pay our dues, and not just come up here asking you for money. We need the money you have. The Federal Government takes away the overwhelming majority of the tax revenues produced by the American population.

I think if I recall correctly, when William Simon was Secretary of the Treasury, he put out a little graph that showed that in the early 1930's, the Federal Government only took away 15 percent of the tax revenues. In the early 1970's, it was 85 percent. So revenue sharing is an absolutely essential factor of life, if the American system of government is to continue to function.

On the question of how you go about that, however, there are as many views on that, I am sure, as there are Members of the House and Senate. But our view is that we will pay our dues. We want to know what the rules of the game are, whether or not we are going to field the team.

I want to make one other somewhat brief observation, if I may. There has been an awful lot of talk about hazard areas. Well, we

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just had the blessing in our community of having what I think some people have said is the largest natural disaster in the history of the country, at least since we have been living on the electric power systems.

Back last September when Freddy the Unloader, as we know him, visited our community—and I think it's interesting to make this observation, Senator. Of the people in the Metropolitan Mobile area, and particularly in the city of Mobile, which incidentally was founded in 1702, before there was a State of Alabama or a U.S. Government to protect us against ourselves—that city has been along all this time, and here comes the hurricane, and not one person lost their life as a result of the storm.

Now somewhere or other—and I think this reminds me of a line in a Waylon Jennings song where it says, "I've always been crazy, but it kept me from going insane"—somewhere or another, perhaps just by conspiracy of ignorance, we have managed to have a decent building code, and it basically weathered the storm.

We lost a lot of roofs. We lost an enormous amount of trees. We were a uniquely forested city. As a matter of fact, as of a couple of weeks ago, we had removed over 4 million cubic yards of debris out of public rights of way in the city of Mobile. Now that's a mountain of junk.

But again, one child was killed outside the city in Mobile County in a house trailer, and frankly the parents ought to be horsewhipped for leaving the child in the house trailer. And an elderly gentleman in a suburban community died of a heart attack. We had a lot of people get hurt with chain saws after the storm.

I'm saying that to say that there is only so far that I think any government ought to go to try to make people aware of the potential dangers or the facts, but if they want to live and in particular have a second home on the seashore with the clear understanding that if a hurricane or something of that sort comes, it's going to blow it away, if they understand it going in and they want to run the many risks, then, you know, they're not going to have any claim on the city of Mobile or State of Alabama or the U.S. Government to replace it. It's their little red wagon and they can push it.

I think that should be borne in mind as we talk about the building codes and all. I don't know of anything, any way you can build something, you can take a tank and put it down on the gulf shore on the night of September 12, and it would have washed away. If you had been in that tank, it would have killed you.

The only thing we can do is go down and tell folks to get out. If they don't have sense enough to leave, then they're going to get hurt.

Fortunately, most of them had the good presence of mind to leave.

Senator STEVENS. I appreciate that, and I think we are trying to move in that direction, trying to leave it so that you can pay your dues and make the decisions that we should not be making.

I hope this bill will do that.

[The statement follows:]

STATEMENT OF GARY GREENOUGH, MAYOR, CITY OF MOBILE, AND CHAIRMAN OF THE ALABAMA COASTAL AREA BOARD

Mr. Chairman and members of the Senate Committee. My name is Gary Greenough, Mayor of the City of Mobile and Chairman of the Alabama Coastal Area Board. I sincerely appreciate this opportunity to share with you our experience in Alabama with the coastal zone management program and some of our thoughts on the reauthorization legislation that is currently before you.

Alabama's Coastal Area Management program was approved by the Office of Coastal Zone Managment in September of 1979 when implementation began. In the short period of time since program approval, we have learned a great deal about the coastal zone program and these experiences guide my comments to you today.

SECTION 303, DECLARATION OF POLICY

In my opinion, amendments or refinement to Section 303, Declaration of Policy, are not needed at this time. This Declaration of Policy has provided adequate direction for the State of Alabama to develop an effective coastal management program while at the same time offering us the opportunity to address the issues and needs that are of concern to Alabamians. We feel that changes in policy under the Federal Act which could necessitate companion changes in the policies of the Alabama Coastal Program could hinder the effective implementation of the management program in Alabama.

SECTION 306, ADMINISTRATIVE GRANTS

It is our opinion that the federal government should continue its financial commitment to the state coastal zone management programs so that they can fulfill the charge given to them under the Act. As properly pointed out in the Coastal Zone Management Act, the issues that face our nation's coasts are complex and these issues cannot be resolved without a comprehensive, long term, resource management program.

In the short period of time that the Alabama Coastal program has been in operation, we have made significant contributions to the citizens of Alabama in the areas of permit simplification, hazard management, resource protection, and the development of sound reliable management information, to name a few.

We believe that given a resonable opportunity, the coastal zone management program in Alabama will prove its worth to the nation and the State of Alabama as a problem solving program.

We would urge the Senate to provide five years of funding to approved coastal management programs from the date of reauthorization at the present 80 percent federal share.

We recommend that the question of continued federal funding beyond this five year period be left open ended. In our view, this decision should be based upon the merits of the coastal zone program and upon the contribution that it is making to the national and state interest. It would be premature at this time to decide the fate of the coastal zone management program without the opportunity to know what the program's accomplishments are.

SECTION 306A, RESOURCE MANAGEMENT IMPROVEMENT GRANTS

The ability to provide for public access to coastal waters and beaches and to restore urban waterfronts would be beneficial to coastal residents. Boat ramps and scenic vistas and other small facilities are not expensive but they greatly enhance the quality of life in the coast. In our opinion, this section should be funded at a reasonable level.

SECTION 307, FEDERAL CONSISTENCY

The federal consistency provisions of the CZM Act are important to the success of the Alabama Coastal Program. Thus far, federal consistency is working well in Alabama, and we expect consistency to continue to be an important part of an effective program in Alabama. In our opinion, any efforts to modify this section of the act would be detrimental to the successful implementation of Alabama's Coastal Zone Management Program.

SECTION 308, COASTAL ENERGY IMPACT PROGRAM

This program has been helpful to Alabama residents in their efforts to accomodate the increased energy related development being experienced in the Coastal Area.

We feel that the impacts of energy development other than OCS oil activity should be considered under the CEIP program. In Alabama we expect the export of coal through our port facilities to have major impacts on the coast. When the Tenn-Tom is completed, 65% of the traffic on this waterway is expected to be coal, estimated to be 18 million tons/year. The transshipment of this coal through the Port of Mobile will have major effects on economic and population growth in the coastal area. We feel that CEIP funds should be available to mitigate these energy impacts.

Proposed funding cuts in the formula grants and loan programs would adversely effect coastal residents. If properly utilized, these CIP funds can materially assist local governments to meet the needs of its citizens.

SECTION 310, TECHNICAL ASSISTANCE

Accurate and reliable management information is absolutely essential to a successful resource management program. Quite frankly, we have found that much of the technical information available is inadequate for sound management decisions. We feel that a research program designed to provide management information can make an important contribution to the success of the coastal program, and we urge you to fund this section of the Act.

SUMMARY

Three years ago we started to build Alabama's Coastal Area Management Program from scratch. We have developed a management program that can provide for the economic development of the coastal area while still protecting the coast's beaches, dunes and wildlife.

With the management program in place, we at the local and state level will be better prepared to deal with the impacts of the Tennessee-Tombigbee Waterway, the impacts of rapid industrial development, and to maintain a high quality of life in coastal Alabama.

So far, the Coastal Area Board has received wide popular support for its program because of this balanced approach. This support was most evident in last year's session of the Alabama Legislature when efforts to abolish the Coastal program were defeated because groups like the League of Women Voters, the Baldwin County Board of Realtors, the Baldwin County Homebuilders Association, the Brown & Root Co., the Alabama Wildlife Federation and other groups testified strongly to keep the coastal program.

We have only been in operation a short time, but even in that short time, the coastal zone management program made an important difference in our efforts to recover from the devastation of Hurricane Frederic.

Coastal program monies funded a stronger building code for the high hazard area of Baldwin County to enable us to be better prepared for another hurricane.

The Coastal Area Board funded additional building inspectors in Mobile and Baldwin Counties to speed up the economic recovery of the Coastal Area.

The Coastal Program funded the redevelopment plan for Dauphin Island.

We also funded the efforts of the Governor's staff to identify sources of funding to facilitate the coastal area's recovery from the disaster.

We have seen the Coastal Area Management Program work well in Alabama.

We think that we have developed an effective management program and that responsible coastal management has the support of the majority of coastal residents.

We expect the management program to be an effective management tool as we address the complex issues which face us today and which will most certainly face us in the future.

Senator STEVENS. Let me say we are getting down to noon. Let me say we are checking to see if this room is available at 2. If it is, I will return and complete the hearing, at least for those people who are from out of town. I know several of the witnesses who are scheduled are from Washington, and we can easily reschedule for that. It is an inconvenience for you to have come back again, but I do hope that we can hear all of the witnesses who came from out of town, and then proceed with witnesses from Washington starting at 2 o'clock if the room is available.

Mr. Schafer?

STATEMENT OF CHRIS SHAFER, CHIEF, GREAT LAKES SHORELANDS SECTION, DEPARTMENT OF NATURAL RESOURCES, LANSING, MICH.

Mr. SHAFER. Thank you very much, Senator. I sincerely appreciate the opportunity to testify before you today on an important issue of the reauthorization of the Coastal Zone Management Act.

With 3,288 miles of shoreline and the longest freshwater coast in the world, Michigan has a substantial stake in coastal management.

I would like to briefly highlight several key points in my written testimony. I won't spend too much extolling the virtues of coastal management, but rather will focus on the specific bills before the committee.

Suffice it to say, in terms of the benefits and positive impacts of coastal management, coastal funds have made a significant contribution in Michigan to protecting sensitive resources, especially wetlands and sand dunes, to controlling hazardous development in high risk erosion and flood-prone areas; toward streamlining the permit process at both the Federal and State level, and toward providing additional public access to our shoreline area, and in revitalizing our urban waterfront in Detroit.

With regard to the specific bills for reauthorization, Michigan supports Congressman Studds' bill with modifications over the administration's bill.

H.R. 6979 is much more supportive of effective state management programs than is the administration's bill. We specifically support the following provisions of H.R. 6979.

The 30-percent ceiling on the amount of the administrative grants that must be devoted to significant improvements addressing the national issues.

We very strongly support the reauthorization of the implementation funding to provide at least 5 years of additional funding for all States for implementing the approved coastal programs, at an 80-to-20 funding level.

We support very strongly the resource management improvement grants, or the 306(a) grants as an additional incentive to States. I would like to stress at this point that based on our experience as the demonstration State in the Nation for using the implementation funds for low-cost preservation and restoration projects, we feel that these types of projects solve very serious management problems in the coastal area.

The regulation efforts and planning and engineering type studies only go so far, and there are specific management problems, particularly related to public access, that do require certain types of construction.

It need not be expensive. The low cost programs have been very effective in Michigan in solving specific management problems and providing the essential tangible products of coastal management.

We would, however, suggest that it be made clear if the 306(a) funding provisions are approved, that the 306 implementation agency also be responsible for the administration of the 306(a) funds. There is a direct relationship between the use of the improvement grant funds to solve coastal problems, and they should

be administered by the lead coastal management agency at the State level.

I would like to briefly discuss one new amendment that we would propose. We urge that the formula grant provisions of section 308, coastal energy impact programs, be expanded to include coal transshipment and unloading, offloading facilities as eligible activities under that program.

We believe that this is especially appropriate in view of the President's mandatory coal conversion program. You may be aware that 78 percent of the plants scheduled for mandatory conversion are in coastal areas of the United States, and the Great Lakes region and the North Atlantic States will be particularly impacted by that program.

In Michigan, for example, we have 28 coal facilities at the present time; 3 that are in the planning or early construction phases; and 4 that are targeted for conversion to coal in the very near future.

We are experiencing significant impacts as a result of either the expansion of the coal facilities or modifications to those facilities in terms of impacts on wetlands, displacement of public recreational facilities, resulting from the dredging of channels for ingress of the large vessels, and facilities for unloading and offloading of coal. Large areas are also required for fly ash disposal areas in a major coal facility, and then, of course, the coal storage areas that are associated with these major facilities.

We have the dubious distinction of having the largest coal facility in the world on our Lake Erie shoreline, the Monroe powerplant, and there have been significant impacts associated with that facility that could be mitigated substantially if additional funds were provided under the coastal energy impact program.

We urge that that program be amended to provide that capability.

Senator STEVENS. Let me see if I understand that. You are saying you want to put those amendments in this bill?

Mr. SHAFER. Yes, sir.

Senator STEVENS. Aren't they already in the DOE bill? Isn't there money available there for that type of activity already? If you make application to DOE?

Mr. SHAFER. No, I don't believe so, sir. The formula grants provision at the present time is strictly limited to the Outer Continental Shelf activities, and we believe in view of the mandatory coal conversion program, and clean air standards that require increased utilization of Western coal, that there is a national-induced impact on the coastal area, and that the formula grant program should be amended to address that.

Senator STEVENS. Why should they come through the energy program? That's what I'm saying. Why should you use these funds for that activity you're talking about?

Mr. SHAFER. Well, the coastal energy impact program was originally directed toward mitigating the impacts of all oil and gas development and other associated energy development in the shoreline area. The mechanism is available to focus on the coastal area.

What we are suggesting is that times have changed to a certain extent since 1976, and now there is increased emphasis on the coal facilities.

Senator STEVENS. But we were looking at that time at the concept of offshore exploration and development and the fantastic impacts onshore. We weren't looking toward conversion from gas to coal or oil to coal, in the sense of the problem that you are facing. You are not mining coal in your area.

Mr. SHAFER. Not at all.

Senator STEVENS. We were looking at a resource development program. You are saying that the conversion problems that you are facing ought to come out of coastal zone funds, and there are funds in the DOE program to take care of the things you are talking about.

Mr. SHAFER. I am not aware of those, sir. Which specific funds are you referring to?

Senator STEVENS. The funds that are there to assist communities to take care of the problems of conversion. I would invite you to take a look at them.

Mr. SHAFER. I'm referring specifically to the environmental impact that would be resulting from these coal facilities. I believe there are some funds to assist communities in converting, but there is a rather significant impact in the immediate coastal area that result from new coal facilities and conversion of existing facilities.

Senator STEVENS. You take a look at it. I'd be happy to talk to you about it, because the moneys are in there. That's $20 billion over there in that whole program to stimulate conversion, stimulate the use of other fuels and development of synthetic fuels, and that's a different kind of pot than we are dealing with here. It's very limited when you start using the money that comes out of this program for acquisition of lands to replace wetlands and whatnot that come about from coal conversion problems, I think you'll run out of money awful fast.

Mr. SHAFER. Well, I appreciate the suggestion. We'll certainly look at that.

We did want to indicate that there are two provisions of H.R. 6979 that were of very significant concern to us. One is the Federal step-in authority, the 306(i) provisions. We recommend that this should not be adopted, and I understand that in the subcommittee markup session on the House side that this has been deleted.

We would suggest that 306(a) funds be tied directly to the significant improvements in addressing the 303(2)(a) national policies.

In the proposed legislation we are also opposed to the citizens suit provision recommended in 311(a). We recommend that this be deleted entirely, as there are more than sufficent opportunities for intervention in the judicial systems of the respective States at the present time.

In conclusion, we believe there have been substantial positive impacts of coastal management and that these positive accomplishments justify reauthorization and continued State and Federal investment for future coastal management.

We respectfully urge that the committee favorably consider the positive aspects of H.R. 6979 and to address the issue of coal

facilities, unloading, offloading facilities in the 308 section of the act.

Thank you very much, sir.

Senator STEVENS. Let me ask you what is the cost of the facilities you are thinking about in terms of this coal problem now on the lakes?

Mr. SHAFER. Well, the types of impacts I am referring to are mainly displacement of recreational facilities as a result of an expansion of a coal storage area, and we have one on Lake Michigan at the present time. The facility is doubling in capacity. The coal storage area has to be expanded, and in the process it is displacing about 50 boat slips in a recreational public marina. So the cost of replacing those will be several hundred thousand dollars of relocating the boat slips in another appropriate area.

The cost, if there are losses of wetland resources as result due to the expansion of coal storage or disposal of fly ash, to replace those areas elsewhere on the shoreline, can be expensive, especially if you are in an urban area where the land prices are very high.

We are in the process of acquiring wetland areas in urban areas, and it runs about $1,000 an acre, so depending on the size you are looking at, there would be an impact there. I don't believe you are talking in the magnitude of millions and millions of dollars, at least not in our State. We are talking on the order of magnitude of several hundred thousand up to a million dollars, perhaps, a year, to focus on specific areas in which there have been these environmental impacts.

Senator STEVENS. I am not unsympathetic with the problem, but I would hope you would confer with us and see if we can't take care of it in terms of funds available through DOE to assist in that type of conversion activity. Cannot it be the cost of acquiring the property, for instance, where the slips are being lost, and can't that be part of the cost of the energy project to acquire an alternative site?

And when you look at the Sohio project in California, for instance, one of the things that they were requiring was that the Sohio retire existing polluting facilities as a cost of building energy facilities?

Isn't a similar concept involved in your coal facilities?

Mr. SHAFER. I think to a certain extent it is, and we extract significant concessions from the utilities when they do build these new facilities. The problem is when there is an existing facility, and it's either expanding or it's converting to a different fuel, and in this case several of the powerplants will be converting in response to a national mandate that they convert.

It seems unfair to expect all the mitigative requirements out of the utility which, then in turn are just passed on to the public in terms of higher rates. I think there is a federally induced category of impacts, and they are in fact impacting the coastal environment and the Nation, and it is my understanding that the DOE funds would not specifically address the environmental impacts. They might look at the community impacts and other things, but not specifically the kind of resource impacts we are discussing.

Senator STEVENS. Let me ask you two gentlemen questions that Senator Packwood—pardon me—I'm sorry, these are for the next

witness. We will submit the questions to you also, that I mentioned before, if that would be agreeable. We would like to ask you to respond to them for the record so that we can cover the questions that Senator Hollings had in mind.

[The statement follows:]

STATEMENT OF CHRIS A. SHAFER, CHIEF, GREAT LAKES SHORELANDS SECTION, MICHIGAN DEPARTMENT OF NATURAL RESOURCES

INTRODUCTION

Michigan's most precious natural resource is our 3,288 miles of Great Lakes coastline. The citizens of our state are dependent on the Great Lakes for commerce, industry, tourism, recreation and water supply. Our efforts to protect and manage these valuable resources have been greatly enhanced and accelerated by Michigan's participation in the National Coastal Management Program and the Coastal Energy Impact Program. This participation has clearly led to major accomplishments in managing and protecting a diversity of Great Lakes coastal resources pursuant to local, state and national coastal management goals. Michigan's coastal managment efforts include a substantial commitment to protecting sensitive resources, such as wetlands and sand dunes; controlling hazardous development in high risk erosion and flood prone areas; expediting permit processing for sound residential, industrial and commercial growth; and for providing financial assistance to local units for a variety of design, engineering and low-cost construction projects, especially along urban waterfronts.

MICHIGAN COASTAL MANAGEMENT PROGRAM—AN OVERVIEW

The Michigan Department of Natural Rasources is responsible for the management and protection of valuable Great Lakes coastal resources, and was designated by Governor Milliken as the lead agency for coastal managment in Michigan. Michigan was one of the first states to have recognized the sensitivity and vulnerability of its coastal shoreline and to have enacted several statutes providing for the managment of precious coastal resources. However, even though such foresighted legislation was passed into law prior to 1972, it was not until assistance was available under the federal Coastal Zone Management Act that the effective administration of these state statutes could be accomplished. This federal assistance has also allowed the state to provide grant assistance to local units of government for innovative coastal related projects. The federally approved Michigan Coastal Management Program thus takes a two pronged approach to coastal management: (1) improved regulation (statute administration); and (2) local financial and technical assistance.

The four state statutes that provide the major regulatory basis for Michigan's Coastal Managment Program are being administered more effectively as a result of financial assistance from the National Coastal Zone Managment Program under Section 306. The Shorelands Protection and Managment Act (P.A. 245 of 1970) authorizes the designation of high risk erosion areas, flood prone areas and sensitive environmental areas for protection from hazardous or inappropriate development. To date, approximately 220 miles of shoreline have been designated as high risk erosion areas and that number is projected to swell to 255 miles within the next several months. Ten coastal communities, representing an estimated 15 miles of shoreline, are currently covered under the flood management provisions of the Shorelands Act, with an additional 25 communities, representing 40 miles of shoreline, expected to be designated in the coming year. Also, as of April 1, 1980, 150 miles of shoreline have been designated as environmental areas, or essential coastal wetlands, under the act, with another 50 miles to be added during the next several months. Staff support and technical studies required for the designations under the Shorelands Act have been funded with coastal management dollars.

Under the Great Lakes Submerged Lands Act (P.A. 247 of 1955), permits must be obtained to utilize the state-owned bottomlands of the Great Lakes for purposes of constructing a dock or marina, dredging or filling, or any other disruption of the bottomlands. Coastal funds are being used to more effectively administer this critical resource management program that protects the public's interest in the Great Lakes bottomlands. A sophisticated computerized permit processing system was developed with coastal managment funds to expedite permit decisions and to improve the technical quality of permit evaluations. This computerized system, along with joint permit processing with the Corps of Engineers has reduced the time for permit issuance from 90–120 down to 30–60 days.

Sand mining in coastal dunes along Michigan's Great Lakes shoreline is now being regulated under the Sand Dune Protection and Management Act (P.A. 222 of 1976). With funding assistance from the Coastal Management Program, 111 miles of coastal dunes along with Lake Michigan have already been designated for management, with additional designations of 119 miles to be made over the next year. Before a sand mining company can mine a designated coastal sand dune, it must secure a permit from our Department which is issued only after state approval of operation and reclamation plans. In recent months, the Department has denied two permit applications because it was determined that the proposed mining operations would have caused irreparable harm to the environment.

The "St. Clair Flats" area, located in the northeast corner of Lake St. Clair, is one of the largest freshwater river deltas in the world. The marshes of the "Flats" are very productive fish and wildlife habitats and are of extremely high recreational value for hunting and fishing because of their proximity to the high population concentrations of the Detroit metropolitan area. In 1913, the state Legislature passed the St. Clair Flats Management Act (P.A. 326 of 1913) authorizing what is now the Department of Natural Resources to manage leases and deeds of property in the "Flats" to private individuals for seasonal cottage uses. Over the years, the conveyance of numerous leases and deeds has resulted in a type and intensity of seasonal development which is currently placing the quality of water and fish and wildlife habitat in jeopardy. In response to this growing problem, the Michigan Coastal Management Program recently completed a comprehensive management plan for the St. Clair Flats. It is anticipated that the information, findings and recommendations presented in the plan will lead to promulgation of management policies and procedures pursuant to the original act to allow for more effective management of the highly sensitive resources of the Flats. Several management recommendations, including denial of deed conversion applications for submerged lots, and updating appraisal methods to reflect fair market values for improved lots, are already being implemented.

The second major thrust of the Michigan Coastal Management Program is financial and technical assistance to state and local units of government for innovative coastal oriented projects. These state and local projects range from wetland preservation to urban waterfront redevelopment and are funded in order to promote desired solutions to coastal problems and opportunities. Examples of completed local coastal projects include: urban waterfront redevelopment projects in Detroit, Monroe and Muskegon; coastal park site designs in Trenton, Detroit, Ludington, Grand Haven, Marquette, Bay City and several other locations; a port development study for St. Joseph-Benton Harbor; and an economic development feasibility study for Sault Ste. Marie. Examples of completed state projects include: a land appraisal for public acquisition of the 2,000-acre St. John's March adjacent to Lake St. Clair; technical studies on erosion control, development of a marina lease fee schedule, computer mapping of coastal information, and the aforementioned St. Clair Flats Management Plan. An innovative inventory of Great Lakes spawning areas was also completed using an oral-history interview process. The exceptionally high quality technical information gained from this inventory has been invaluable in reviewing dredge and fill applications and in planning fisheries stocking programs.

The overall impact of the state/local grant assistance approach to coastal management has been exceptionally well-received by state and local officials and has substantially strengthened the state/local partnership which is essential for developing and implementing mutually desired solutions to coastal management issues. Coastal funding, in many cases, is being used as a catalyst to get a project moving and provides leverage in obtaining additional grants for actual implementation from other funding sources. This catalytic relationship has been especially succesful with the Land and Water Conservation Fund which is also administered by the Department of Natural Resources. Several projects that were designed with coastal funds are scheduled to be constructed with LAWCON dollars as soon as the Administration's "freeze" on these funds is lifted or modified.

Michigan is the only coastal state to receive "pilot status" for using coastal management funds to implement low-cost construction projects which relate directly to coastal preservation and restoration. This demonstration status has allowed the Michigan Coastal Management Program to directly implement, through both the Department and local governments, tangible and innovative coastal projects. For example, local low-cost construction projects included the restoration of historically significant buildings (such as the Henry Schoolcraft House in Sault Ste. Marie, the Beaver Island Lighthouse, and the Grosse Isle Customs House), and the restoration and improvement of public access to the shore in Petoskey and Detroit at Fort Wayne. At the state level, low-cost construction projects included boardwalks over coastal sand dunes and wetlands, and interpretive displays at several state parks

(Hoffmaster, Ludington and many others). The use of coastal management funds for low-cost construction projects has been a tremendous success, and it is extremely important that Michigan continue to be provided the opportunity to use coastal funds to provide these tangible projects which solve specific preservation and restoration management problems.

Under Section 307 of the Coastal Zone Management Act, procedures are outlined whereby federal agency actions within state coastal zone boundaries must be reviewed for consistency with approved state coastal management programs. From our experience with federal consistency determinations during the first two years of program implementation, we have found that the current provisions are quite satisfactory and are having a significant impact on coastal management activities in Michigan. The federal consistency provisions of the Act have substantially improved coordination between the state and federal agencies resulting in fewer conflicts in coastal resource management. Therefore, we urge that the existing federal consistency provisions should not be modifed until such time as additional experience clearly documents the need for changes to this essential section of the Act.

THE FUTURE—REAUTHORIZATION AND BEYOND

Despite significant progress, much essential work remains. Major Great Lakes programs concerned with recreational opportunities, fisheries management, erosion area and wetland protection, island resource management, coastal transportation planning and others will need continuing assistance to respond to complex and widespread coastal issues. Only through a sustained federal, state and local partnership will Michigan maintain its growing commitment to fully protect and manage our magnificent coastal resources for generations yet to come.

Toward this goal, both Governor Milliken and the Department of Natural Resources strongly support and encourage reauthorization of the coastal Zone Management Act of 1972 (P.L. 92-583, as amended) in 1980. Assurances for continued funding of administrative grants under Section 306 of the Act are essential in order to realize the full potential of state coastal management programs which are just now being implemented. Further, it is essential that this assurance of a continued federal commitment be guaranteed for at least an additional five years for all coastal states at the current 80/20 federal/state matching level.

The State of Michigan has been very pleased with the positive impacts of the Coastal Zone Management Act and its administration in its first five years. To insure its success for the future, the program must maintain its adaptability to address new issues. Although it is important that the national coastal management priorities of urban waterfront revitalization, improved permit coordination, prevention of hazardous coastal development, and the protection of sensitive coastal areas be reflected in state coastal programs, it is critical that the federal act and the administration of the act continue to allow states to develop and implement flexible programs that respond to state and local coastal problems and opportunities within their respective jurisdictions. In this regard, we believe the approach taken by congressman Studds in H.R. 6979, of placing a ceiling of 30 percent on the amount of a state's implementation grant that must be devoted to national issues, is much preferred to the Administration's open-ended approach. Congress found in 1972, with the passage of the Coastal Zone Management Act, that the primary national interest in coastal management was "to encourage states to exercise their full authority over lands and waters in the coastal zone." This fundamental expression of national policy remains equally valid today.

Also, it is necessary that coastal management be responsive to changing issues and needs, such as energy impacts. For Michigan, the Great Lakes region, and the North Atlantic states, it is readily apparent that the substantial increases in coal transshipment and utilization will result in significant coastal impacts. A combination of oil shortages, the national commitment to become energy self-sufficient, the President's mandatory coal conversion program, and the U.S. Environmental Protection Agency clean air standards which necessitates the use of western coal, all clearly indicate increases in the amount of coal utilization and movement.

During the last three years, coal transport on the Great Lakes has reached 40 million tons annually. This coal is used for electrical generation, steel production and other uses in many parts of the Great Lakes region. The projections for coal transshipment in the Great Lakes show that tonnage could increase to 135 million tons per year by 2000. This is a 360 percent increase over the 1977 figures, and more than double the historic high of 1948.

Michigan has 28 coal fired electric power plants located on the Great Lakes and their connecting waterways, with an additional three units planned for the very near future, and four units mandated to convert to coal. These Michigan coastal power plants alone can utilize approximately 45 million tons of coal annually. The

Michigan Great Lakes shoreline is already experiencing coal related impacts in the form of increased erosion in the connecting waterways, increased port dredging and resulting dredge disposal problems, the loss of many acres of valuable coastal wetlands for coal storage and fly ash disposal, and the displacement of coastal parks and recreational boating facilities as well as decreased public access due to coal related activities and facilities.

Although the planning grants authorized by the Coastal Energy Impact Program have been useful in studying the impacts of new or expanded energy facilities, Section 308 currently does not adequately allow states, especially those in the Great Lakes region, to mitigate these coal-related impacts. We have an opportunity now, during the reauthorization process and before dramatic increases occur, to anticipate potential impacts and develop strategies to eliminate or mitigate serious and irrevocable environmental damage. The Coastal Energy Impact Program should be amended now to address the increased use of coal, just as the program was developed to address the increased oil activities in 1976. The analogy between the Outer Continental Shelf "federally induced" impacts to coal-related coastal impacts is quite strong in view of the President's mandatory coal conversion program and the U.S. Environmental Protection Agency clean air standards which necessitates the use of western coal.

Below is draft language that we respectfully urge be added to the formula grants section (308(b)(2)) of CEIP which would address the impacts of coal transshipment in addition to Outer Continental Shelf impacts.

Section 308(b)(2)

Or, (E) An amount which bears, to (percent) of the amount appropriated for such purposes for such fiscal year, the same ratio that coal tonnage is imported or exported from state ports.

(F) An amount which bears, to (percent) of the amount appropriated for such purpose for such fiscal year, the same ratio that numbers and capability of coal transfer, on-loading, off-loading or related facilities are built or expanded.

(G) An amount which bears, to (percent) of the amount appropriated for such purpose for such fiscal year, the same ratio that miles of shoreline are affected by coal transshipment.

SPECIFIC COMMENTS ON THE ADMINISTRATION'S BILL AND H.R. 6979

In general, the provisions of Congressman Studds' H.R. 6979 are more supportive of effective state coastal management programs, and therefore we support H.R. 6979, with modification, over the Administration's version. I have previously discussed the need for the 30 percent ceiling on administrative grants that must be directed to national coastal issues, and the need for at least five additional years of implementation funding for all states, both of which are contained in H.R. 6979. In view of Michigan's highly successful experience as the demonstration state for low-cost preservation/restoration construction projects as an integral component of our management program, we are very supportive of the proposed Section 306A—Resource Management Improvement Grants provision of H.R. 6979. The concept of providing an additional incentive to states is excellent, and the types of eligible projects that would be authorized are essential to effective coastal management.

We are, however, very concerned with the provisions of the proposed subsection 306(i). We believe that the Michigan Coastal Management Program already responds very thoroughly to the protection of sensitive, unique and valuable coastal resources such as wetlands, sand dunes, spawning reefs, high risk erosion areas and others. Adequate safeguards are already contained in both the Administration's bill and H.R. 6979 related to protecting these resources by the requirement of Section 306(a)(3) for significant improvements in the management program directed to the policies of Section 303(2)(A). Further, the concept of additional federal intervention and the attendant massive federal bureaucracy is unacceptable. We would suggest as an alternative that eligibility for the 306A funds be tied to the significant improvements requirement of addressing the pressing national issues enumerated in 303(2)(A).

One additional provision of H.R. 6979 that is of great concern to us is the "Citizen Suits" concept of Section 311A. This section is completely unnecessary, and, if adopted, would make effective implementation of state management programs exceptionally difficult, if not impossible. The administrative procedures acts of the various states, and the citizen intervention statutes, such as Michigan's Environmental Protection Act, already provide more than adequate judicial remedies to aggreved parties. Decisions of state coastal management should be contested in state courts, not federal courts, and therefore, we respectfully urge that this amendment not be adopted.

CONCLUSION

The Department is proud of its successes in administering the Coastal Management Program in Michigan. We firmly believe that Michigan's participation in coastal management has resulted in substantial positive benefits in terms of sensitive resource protection, controlling hazardous development, provision of additional public access and desired coastal dependent economic development, and streamlined decisionmaking.

Michigan has been a leader in the national program and strongly supports the coastal zone management concept as a means to effectively address the pressing problems and unique opportunities of protecting and enhancing Michigan's magnificent coastal resources. I can assure you of Michigan's complete cooperation during the reauthorization proceedings to insure that the Coastal Zone Management Act continues to respond to state and national objectives for effective coastal resource management.

At this time, I would like to provide to the Committee members, and enter into the hearing record, a packet of information material which describes more fully the distribution of coastal funds and the projects funded under the Michigan Coastal Management Program during its first two years of implementation. I would also like to express my sincere appreciation for the opportunity to testify before this Committee. I would be pleased to respond to any questions that you may have.

[The following information was subsequently received for the record:]

STATE OF MICHIGAN,
DEPARTMENT OF NATURAL RESOURCES,
Lansing, Mich., May 6, 1980.

Senator HOWARD W. CANNON,
Chairman, Senate Committee on Commerce, Science, and Transportation
Dirksen Office Building, Washington, D.C.

DEAR SENATOR CANNON: In response to Senator Steven's questions during my testimony at the April 30, 1980 hearing on reauthorization of the Coastal Zone Management Act of 1972 regarding the use of Department of Energy funds to mitigate environmental and recreational impacts of new or expanded coal facilities, I conferred with Eileen Mulaney, who is Director of the Coastal Energy Impact Program in the Office of Coastal Zone Management. Ms. Mulaney was informed by Mr. Steve Harrad in the Office of Policy, Department of Energy, that the funds authorized by the Oil Back-out Amendment to the Fuel Use Act of 1978 can only be used to mitigate impacts required specifically by state or local law, e.g., the Clean Air Act or the Clean Water Act. Other forms of mitigation, such as replacement of boat slips or wetlands, and landscape berming of coal storage areas would not be eligible under the Department of Energy program. Consequently, it is clear that there is no duplication between our proposal and the Department of Energy program.

As I stated in my testimony, we believe that there are significant environmental and recreational impacts that are occurring, and which will intensify in the future as a result of new, expanded and converted coal facilities. We believe that the formula grants provisions of the Coastal Energy Impact Program should be amended to respond to these nationally induced environmental impacts.

Thank you for the opportunity to provide this additional information. If you require additional information or if I can be of further assistance, please do not hesitate to contact me directly.

Sincerely,

CHRIS A. SHAFER,
In Charge, Coastal Management Program,
Land Resource Programs Division.

QUESTION OF SENATOR RIEGLE AND THE ANSWER OF MR. SHAFER FOLLOW

Question. I notice in your testimony that you mention the increased use of coal and its possible impacts. I wonder if you would briefly outline some of these possible effects and tell the committee what benefit we might expect in including the impact of Coal as a criteria for the distribution of Coastal Energy Impact formula grants?

Answer. Based upon latest available data, we anticipate approximately $5 to $7 million would be necessary this year to begin to mitigate coal impacts in the Great Lakes region, subject ot adjustment after first year results and new annual data. Funds would be focused toward protection, restoration or replacement of coastal

environmental and recreational resources which are threatened, damaged or destroyed as a result of coal facilities and activities.

Many acres of once valuable coastal wetlands are currently being used for coal storage, coal mixing areas, and fly ash disposal. The Detroit Edison Company power plant in Monroe County on Lake Erie is the largest coal fired power plant in the nation and is located in the most valuable wetland area in southeast Michigan. Approximately 1,200 coastal acres are being utilized for coal mixing, storage and fly ash disposal. CEIP financial assistance would be used to protect nearby wetlands in the area to preserve the natural state for wildlife habitat and to develop strategies to avoid future use of coastal wetlands for such use.

Coastal coal on-loading, off-loading facilities have precluded use of those coastal areas for public recreation and decreased public access to the shoreline. Coastal parks and recreational boating facilities in close proximity to coal facilities experience impacts in the form of fugitive dust and noise from coal handling, as well as unpleasing aesthetics. Residents and recreational boating enthusiasts have complained throughout the state about the problem of fugitive dust on their homes and recreational boats when in close proximity to coal handling facilities. CEIP funds would be used for the preservation of coastal recreation for the public and assured public access to the shoreline for fishing, boating and other leisure activities. Berming and vegetative screening is effective in minimizing problems around existing coal facilities. The City of Grand Haven on Lake Michigan has proposed such a solution to eliminate problems associated with a large coal storage area and power plant across from a public park and marina. The project will cost by far in excess of what the city has available and CEIP funds are requested.

Connecting waterways and shipping channels will experience increased disturbance and erosion due to increasing coal transshipment. A recently funded CEIP planning project analyzed the erosion control options available to the City of Port Huron to control increased erosion on city owned public property which was due, in part, to the new 1,000-foot coal vessels traversing the narrow waterway enroute to a coal fired Michigan power plant.

This is just a brief description of the types of environmental and recreational impacts which are occurring and which we expect to increase with the projected increased coal utilization and movement in the Great Lakes states, as well as the rest of the nation. We believe it is appropriate, and essential, for the CEIP to address these coal related impacts to manage and protect our valuable coastal areas in conjunction with responding to national energy policies and priorities to meet our energy needs.

Senator STEVENS. We have obtained another room. It's room 235, and we will continue the hearing at 2 o'clock. I will ask the staff to talk with the prospective witnesses and list the witnesses who are out of town first for this afternoon, so that we can be assured that we will cover your testimony today.

Thank you very much.

AFTERNOON SESSION

Senator STEVENS. Mr. Ross of the Coastal States Organization. Let me apologize that the State Department called a special briefing for the leadership on Iran. I've been delayed, but we will try to complete the hearing, as I've indicated with those who are from out of town.

Mr. Ross, we'll be happy to get your testimony in the record here.

STATEMENT OF JAMES F. ROSS, CHAIRMAN, COASTAL STATES ORGANIZATION, SALEM, OREG.

Mr. Ross. Thank you, Mr. Chairman. My name is Jim Ross. I'm chairman of the Coastal States Organization. I'm also the deputy director of the Oregon Department of Land Conservation and Development, which is responsible for our statewide land use program as well as our coastal management program.

Mr. Chairman, thank you for the opportunity for the Coastal States Organization to be represented here today and to place our testimony in the record.

As you know, the CSO was created in 1970 by the National Governors Conference and helped in the passage of the Coastal Zone Management Act of 1972, the 1976 amendments, and also, Mr. Chairman, CSO was the first user group this last year to really begin looking at reauthorization. We had a conference in Fredericksburg in November of 1979 wherein a consensus document was reached, representing the opinions of all user groups on the kinds of amendments or lack thereof that ought to occur relative to the Coastal Zone Management Act.

You have my prepared comments; I won't read them. The prepared comments do have a section by section comparison of H.R. 6979 and S. 2622.

I would like to emphasize three points, Mr. Chairman, in addition to the fact that the Coastal States Organization has a preference for—a strong preference for the Studds version of the reauthorization bill.

The three points I would like to emphasize, Mr. Chairman—first, funding under section 306. H.R. 6979 has a 30-percent factor tied to national policy issues. S. 2622, in contrast, has increasing percentages that would have to be tied to the national interest issues, while at the same time, after 5 years, or in the case of States like Oregon, only 3 years, a decreasing level of Federal participation in the program.

I would submit to you that that is really not consistent with what Congress—at least I hope what Congress had in mind in the passing of the act in 1972.

I think that having this increasing percentage in S. 2622 allows an opportunity for some well-intentioned mischief—I would want to point out that I am not by this comment lending any discredit on the staff of the Office of Coastal Zone Management; they have been superb. I've always had a fine working relationship with that office. But a State could be whipsawed from one national policy issue one year to another, based on the ability of the Office of Coastal Zone Management to say this year, this is a hot coastal zone management policy item. The next year it might be something else.

The second point I would like to make is one that perhaps ought not be belabored, because it's my understanding it's been taken out of Congressman Studds' bill. That is the section 311(a), citizens' suits. I would like to take this opportunity, though, on the record to indicate that it's an admirable but ill-conceived notion, and it's our understanding there may be efforts to have it put back in by the full committee on the House side.

The problem here is that I think one of the primary purposes of the Coastal Zone Management Act is to streamline the permit processing procedures at the State level. Yet this provision for citizens' suits would allow, for example, a citizen to come in at the Federal level without perhaps having participated locally. Obviously a citizens' suit and appeal that would not take part in the local process has only one result, and that is to further delay the permitting processes.

Senator STEVENS. I think you're absolutely right there. I've read your statement on that.

Mr. Ross. Thank you. Section 312, my third point, Mr. Chairman—the coastal States support a strong, meaningful annual review of coastal program performance. There is a large difference, however, in the approaches in H.R. 6979 and S. 2622.

Our point is, Mr. Chairman, a State should be evaluated against its approved program and the mechanisms contained in its approved program for protecting and managing the national interest.

Senator STEVENS. What about its appropriation level, funding level of its program? Don't you want to see where they're putting their money, too?

Mr. Ross. I think that accurately one might say that 100 percent of the 306 funding is tied to the national interest, rather than 30 percent or some other figure. The reason for that is that the primary national interest is to enable States to develop their capacity to balance the national interest objectives in sections 302 and section 303, some of which conflict obviously, and through that balancing process, to do a better job of managing coastal resources.

Senator STEVENS. My question is, don't you think we ought to have some gage as to the amount of effort that they're putting into their programs? You said we ought to look at their authorization and program structure. I should think that a third point ought to be the extent to which they're willing to commit their own moneys to the program.

Mr. Ross. I'm sorry; I misunderstood. Yes, and to that degree, if one is looking at perhaps even a different level of match than is now contained in the existing act, that would not likely meet with a great deal of resistance from coastal States. It would meet with resistance if one were to talk about it going all the way down to a 33⅓-percent Federal, 66⅔-percent State level.

I think that is consistent with the national objective of trying to allow the States to implement the national objective—of allowing the States to balance conflicting national interest policies contained in section 303.

Mr. Chairman, there would be one other point I would briefly mention. It's not in my prepared testimony.

The question has been raised and there has been considerable discussion on the notion of special area management programs. I'll describe that type of program. I think it's probably the most direct response that a State can have in terms of dealing with the section 303 issues as included, both in the administration bill and the Studds bill.

In Oregon, as one example, on one estuary there are 42, Mr. Chairman—42 different governmental entities that have some say as to how we're going to manage the land and water resources of that particular estuary and surrounding shoreland—42 different roles that are played that are not coordinated—or have the definite opportunity of not being coordinated. It's no wonder there is a considerable amount of chaos and time delay and so forth in coastal decisionmaking activities, et cetera.

By taking all of those jurisdictions—this is what is known as a special area management program and having them develop together and in partnership—local, State, and Federal—a manage-

ment program that describes in one public document how we're going to manage our land and water resources and one public document that is followed by local, State, and Federal agencies—we have an opportunity to get rid of that chaos and create some order out of the process, which unfortunately in the past has been somewhat chaotic.

It builds a great deal of predictability, Mr. Chairman, in the planning and permitting process at the local level.

Special area management programs ought not be mandated. But as a volunteer program, certain additional encouragement could be provided in the act, if you should choose to do that. It is there now; the States have that option, and a number of States are using that type of effort as we are in a number of areas of the Oregon coast, in Washington, and also in the State of California.

Mr. Chairman, that concludes my testimony. I would be happy to respond to any questions that you might have.

Senator STEVENS. As I indicated this morning, Senator Packwood had some questions, Mr. Ross. In the case of Oregon, it's been one of the most aggressive States in protecting its coastal environment and was the second State to join the CZMA program, but other States would be penalized for their earlier participation in the program; those States which joined first would lose their funding.

What do you think about that proposal?

Mr. ROSS. Well, Mr. Chairman, wearing my Oregon hat, but also as well wearing my Coastal States Organization hat, yes, S. 2622 as written would penalize those States who are into the program early, who had demonstrated an ability to have programs and to do an excellent job of managing coastal resources. Oregon has been approved, as has Washington, for over 2 years now. We would find the declining Federal participation in the State's program starting 3 years from now—actually 2 years from now—that is not good, particularly going down to one-third match.

So not only do we penalize States who signed up early, we also reduce that level of funding they're going to be receiving much earlier as well.

Senator STEVENS. Senator Packwood points out that several States including Oregon have demonstrated their ability to follow the intent of the CZMA, but nonetheless the administration bill requires even greater Federal oversight in sections 303 and 312. What do you think about the need for those sections?

Mr. ROSS. Mr. Chairman, I think in the Senate bill the only problem we have with those sections would be the linkage between section 312 and section 303. Simply put, we have no problem with the further definition of policy issues in section 303. In fact, we think that's a laudatory notion in both bills.

We do have a problem, though, in tying the 312 annual review by the Office of Coastal Zone Management to section 303. We submit instead, Mr. Chairman, that it ought to be tied to the mechanisms within the State's program as they were approved. That is to say, a State ought to be evaluated on the basis of how well the mechanisms and the tools and procedures and policies within their approved program are carrying out the national interest and the national policies, rather than setting their program aside and looking at the national policies directly.

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The reason for that is, there is too much chance for the whipsawing of a State from one national interest policy to another from year to year, depending on whatever the hot item is or what the personal bias of that particular staff might be.

Senator STEVENS. I am told the port authority of Coos Bay has a special area management effort. What do you think of that?

Mr. Ross. Coos Bay happens to be my hometown as well, Mr. Chairman.

Senator STEVENS. You're wearing two hats now.

Mr. Ross. We think that that program is moving along very, very well.

Senator STEVENS. What's its major objective? Why should it have a special area management effort?

Mr. Ross. The major objective is to create one comprehensive plan, one public document, that determines how we're going to manage the land and water resources of that area that Federal agencies, State agencies, and local government will all participate in and follow when it's completed. That's the only way we see, Mr. Chairman, to bring order and predictability to coastal management.

Senator STEVENS. I thought that was a goal for the whole country. What's special about Coos Bay?

Mr. Ross. I think, Mr. Chairman, as I indicated, that probably is the best way to most directly carry out national policy objectives in section 303—is through special area management programs. It would be a desirable thing, in my opinion, to see that used much more across the Nation.

Of course, many State programs are built on different premises in terms of governmental organization than is Oregon's, California's, Washington's, or Alaska's. Those programs all involve very directly and rely upon very heavily the comprehensive plan at the local level that is participated in in terms of its development by local, State, and Federal agencies.

And I might add, Mr. Chairman, that if that process fails, it may fail on the part of Federal agencies not, No. 1, being able to participate in the development of those local area management plans, special area management plans, or second—and worse yet—those agencies, rather than participating, still decided to hang back and ad hoc the permit decisions on the basis of something other than that jointly-decided-upon comprehensive plan.

Senator STEVENS. What's this coal transshipment impact item that you'd like to support expanding the CEIP Act for?

Mr. Ross. That's an interesting question, Mr. Chairman. The coastal States have gone on record through their executive board to support the request of the Great Lakes States to include in section 308(b) provisions for coal transshipment. The combination of the oil shortage and the national commitment to become energy self-sufficient and the President's mandating coal conversion all mean—particularly in the Great Lakes—coupled with the EPA requirements on air quality—a higher level of coal quality is going to have to be used that would be shipped into the Great Lakes from the West—Montana, for example. We're talking about a tremendous additional impact on dredge spoil areas for the increased dredging that's going to occur, as mentioned earlier by Chris Shafer.

Senator STEVENS. Is that the same item he was talking about—that concept?

Mr. ROSS. The same thing.

Senator STEVENS. You're not talking about coal slurry pipelines and coal imports?

Mr. ROSS. The Coastal States Organization is speaking specifically of supporting Michigan and the Great Lakes States on the basis of having that source of money that is available to other coastal States to be used to offset the impacts that will occur. We're willing to share those dollars with them.

Senator STEVENS. Thank you very much. Again, we will be submitting questions on behalf of members of the committee. We'd appreciate it if you'd give us your answers. We'll keep the record open for 2 weeks for you to be able to respond as soon as possible.

Senator STEVENS. Thank you very much, Mr. Ross.

[The statement follows:]

STATEMENT OF JAMES F. ROSS, CHAIRMAN, COASTAL STATES ORGANIZATION

The Coastal States Organization (CSO) would like to express its appreciation to Chairman Cannon, Senator Hollings and the Committee for the opportunity to testify on the reauthorization of the Coastal Zone Management Act (CZMA). At the time of preparation of this testimony, two reauthorization proposals had been made available for CSO review; HR 6956, commonly referred to as the Administration's bill, and the bill introduced by Congressman Studds, HR 6979. Although both bills recognize that coastal zone managment has been a success and that only minor amendments will be necessary in reauthorization, CSO greatly prefers Congressman Studds bill to the Administration's proposal. The Studds bill clearly affirms the voluntary nature of coastal zone management, and provides the necessary incentives for coastal states to continue in the implementation and improvement of their various coastal management programs.

The coastal states are in agreement with both the Congress and the Administration that there should be a multi-year reauthorization of the CZMA, and reauthorization is the appropriate time to accommodate certain minor but necessary amendments. The following is a section by section constructive evaluation of the Administration's and Congresman Studds' reauthorization proposals offered by the CSO for the Senate's consideration.

Section 301, short title.—The title "Coastal Management Improvement Act of 1980" is preferred to the title of the Administration's bill. Congressman Studds' bill has eliminated the word zone from many sections of the act; this action has also been favorably received.

Section 303, declaration of policy.—It is recognized that the substance of the 1972 policy declaration and the subetance of the reauthorization proposals are the same. States with management programs in accord with the 1972 policies should also be in accord with the 1980 policies. However, it is recognized that there is a need to more clearly enunciate the intent of the original policies. There is only a minor differnce between the policies of the Administration's bill and Congressman Studds' bill; either version would be agreeable to the coastal states.

Section 304, definitions.—The Administration's bill introduces no changes in section 304. Congressman Studds' bill introduces the term "coastal resources are of national significance, but the definition in section 304(2) is vague and could be overly broad in interpretation. If this concept is to be introduced in reauthorization, the nature and extent of the national interest in these coastal resources should be more clearly defined.

Section 306, administrative grants.—Both bills require states to devote a portion of their administrative grants to the policy declarations of section 303(2). Congressman Studds' bill requires 30%; the Administration's bill does not specifiy a percentage. These provisions bring to mind this question; need a state's administrative grant not specifically devoted to the 303(2) policies be utilized in accord with public policy and the national interest? The answer is, of course, affirmative. But these provisions have caused great confusion among the coastal states, in that approved coastal management programs have been developed in accord with public policy and the national interest. Is the rationale for requiring such designations an assertion that some approved coastal management programs fail to adequately implement the national interest? if so, it would be more appropriate to place such requirements in

proposed section 306(A) for resource management improvement. In any case, the 30% ceiling which would prevent excesses in the application of this provision by an administering agency is better than no limitation at all.

The commitment of Congressman Studds' bill to eight years of section 306 funding with no reduction formula implies a long-term national interest in coastal management. In contrast, the section 306 funding reduction formula of HR 6956 implies that there will be a substantial reduction of federal involvement in coastal management by the end of the decade. the CZMA, as it was originally envisioned, was to provide for the establishment and implementation of state coastal management programs as the mechanism through which national interests, often conflicting, would be balanced and accommodated. It is CSO's position that approved coastal management programs provide the policies and procedures necessary to balance and protect the national interest. Therefore, it is in the national interest to insure long-term implementation funding. This fundamental presumption is lacking in the Administration's proposal.

The section 306(b)(i) provisions contained only in Congressman Studd's bill address a course of action to be taken by the federal government should a state default in the administration of its approved coastal management program by not amending its program to accommodate "coastal resources of national significance." It is our understanding that 306(b)(i)(2&3) may have been dropped in HR 6979 (by Subcommittee action 4/24). If so, CSO would concur with that decision. Should these provisions still be included, CSO understands the need for an increased federal rule in coastal management where a state defaults in its coastal management responsibilities. However, this section assumes that a state has defaulted if the state has not amended its program or does not have an approved program. What if a state has chosen not to participate in the volunteer program but is adequately carrying out, on its own, the national interest as defined in the section 303? What about a state that has already met the additional requirements in this section? As origninally drafted, the Secretary, regardless of the quality of the state's coastal management program, would be required under section 306(b)(1)(2) to take remedial action. A provision to allow the Secretary of Commerce to waive the application of this requirement would be needed if these sections are retained. Other questions also come to mind. Could the federal government identify these resources and develop sound management programs within one year that would adequately balance the competing national interests in secton 303? What type, level and location of staffing would be necessary for the federal govenment to carry out such a program? What level of public review and citizen appeal would be provided? It is quite appropriate for the federal government to conduct its programs in a manner that will further protect resources of national significance if a state does not do so. However, it would surely take more than one year and a much larger agency than OCZM to successfully implement this section. A more definitive definition of "Coastal Resources of National Significance" may help provide answers to these questions.

Section 306(A), resource management improvement grants.—This section, which is found only in Congressman Studds' bill, would provide a valuable tool for the implementation of coastal management programs. CSO approves of its inclusion. As previously stated, it might be more appropriate for the 30 percent committed policy funding to be tied to this section rather than section 306. This section would also be an appropriate section for the authorization of management funds for estuarine sanctuaries.

Section 307, coordination and cooperation.—The legislative framework of the federal consistency provision of section 307 is sound. The coastal states have not indicated a desire to have this section amended. Any concerns the coastal states might have with the mediation procedures of federal consistency is better remedied administratively.

Section 308, coastal energy impact program.—The Great Lake states have commented that it would be to their advantage to have the transshipment of coal included in section 308(b). This is certainly a much needed provision, and is in accord with the intent of the original section 308. Coastal states have also expressed concerns over proposed reductions in funding levels of the CEIP program.

Section 311(A), citizen suits.—Only Congressman Studds' bill provides for citizen suits and it is understood that this provision was deleted at the April 24 markup. It was the position of the coastal states that this provision be deleted. States are required by existing section 306(c)(2)(B) to provide for citizens' review and many states have provided a formal appeals process in their management programs. It is appropriate that states provide some formal appeals mechanism. But to allow citizens to have federal court standing before they have exhausted the remedies provided by the states through their coastal management programs would seriously disrupt program implementation. It is unthinkable that a citizen could bring an

action at the federal level without ever having participated in the processes provided for within a state program.

Section 312, review of performance.—The Administration's review proposal is not acceptable to the coastal states. The Administration's proposal would assess a coastal state's performance on the extent a state's activities "address the coastal management needs identified in section 303(b)." Again, the underlying reason for coastal zone management is the establishment of state programs to serve as a forum in which the section 302 and 303 policies can be balanced to reflect the national interest. The states now implementing their coastal programs are acting in the national interest; if this were not the case, program approval would have been, or should be, withdrawn by the Secretary of Commerce.

The balancing of these national interests is a long-term process, and although the Administration's emphasis on the section 303(b) policies is understandable, the manner in which any such review provision might be conducted is of concern to CSO. Certain national interests may be glamorous one year and out of vogue the next. There is the potential for coastal states to be annually whip-sawed from one national interest to another. This is clearly incompatible with the provisions developed by coastal states in their management programs which, although flexible and able to accommodate a broad range of competing interests, are designed to balance national interests over the long-term. For the above reasons, it is the position of the coastal states that section 312 reviews of performance should be based solely on a state's adherence to the provisions of its approved coastal management program and adherence to any grant or cooperative agreement funded under section 306.

In contrast to the Administration's bill, H.R. 6979 provides a 312 mechanism which is an improvement over the original CZMA. CSP supports the amendments as proposed in H.R. 6979.

Section 315, estuarine sanctuaries and island preservation.—Provision for management funds for estuarine sanctuaries should be authorized in this section or in section 306(A).

Section 316, coastal management report.—The CSO supports the change to a two year reporting cycle. The systematic review of federal programs affecting coastal management also has the strong support of the CSO.

Section 318, authorizations and appropriations.—CSO strongly supports the authorization and appropriation provisions of Congressman Studd's bill, in particular the provision for the authorization of section 306 funding for eight years. Again, CSO would support the addition of funding for the management of estuarine sanctuaries to this section.

In concluding, the CSO would again like to express its appreciation for this opportunity to testify. The Coastal States Organization is aware of the Senate's strong commitment to the continuation and the improvement of state coastal management programs, and this Committee can be assured of our continued support.

Senator STEVENS. Mr. Barre of Marathon Oil?

STATEMENT OF CHARLES H. BARRE, VICE PRESIDENT, REFINING, MARATHON OIL CO., ON BEHALF OF THE AMERICAN PETROLEUM INSTITUTE; ACCOMPANIED BY R. E. HUNT, TEXACO, INC.; AND STEPHEN CHAMBERLAIN, AMERICAN PETROLEUM INSTITUTE

Mr. BARRE. With me today are Mr. R. E. Hunt and Mr. Stephen Chamberlain. I am vice president for refining for the Marathon Oil Co. My statement today is presented on behalf of both the American Petroleum Institute and the Western Oil and Gas Association. We have filed our complete statement, and I have a very brief review of our comments.

Senator STEVENS. Very well.

Mr. BARRE. On behalf of both associations, I reaffirm the petroleum industry's support of the overall objectives of the Coastal Zone Management Act. We've given that support since the inception of the act, and our support of these objectives continues to this day.

I am a member of API's national CZM steering committee. Through that committee, we try to contribute to the development

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of State coastal zone management programs that would best serve the national interest.

The petroleum industry supports the eight new national policy goals in S. 2622. They should have a good balancing effect in clarifying the objectives of the Coastal Zone Management Act. The Coastal Zone Management Act, S. 2622, recognizes the need for multiple and compatible economic uses of coastal areas while providing the necessary emphasis to the protection of significant natural resources.

The policy section of the bill gives equal weight to important environmental and recreation goals as well as to development concerns. It would encourage coordination and simplification of Government decisionmaking. It would provide orderly procedures and priority consideration for siting major defense, energy, recreation, and transportation facilities.

We also support the annual review of performance provision of the bill as it broadens the secretarial review authority. However, our support for S. 2622 does not diminish our concern that future oversight efforts should focus on Federal consistency and the need for a mechanism to resolve conflicts among the various units of State, regional, and local governments. Some form of State review of major development projects is envisioned with heavy emphasis on simplification and coordination of the entire permitting process.

Of special concern to the energy industry is the emerging problem arising from the Federal consistency provisions of the act as they apply to Outer Continental Shelf activities. In the OCS, the responsibility for resource development and environmental protection is clearly with the Federal Government. The Federal consistency provisions of the CZM Act may be used by some States as a means to override the statutory authority of the Federal Government regarding OCS development in Federal waters.

Therefore, it seems appropriate to place primary reliance on the State consultation and coordination procedures of the OCS Lands Act, which already provides appropriate balancing between State and national interests.

S. 2622 does not resolve the conflicting provisions of the CZM act and the amended OCS Lands Act, and resolving those conflicts will remain the petroleum industry's goal. However, at this midpoint in State CZM program approval and implementation, reauthorization of the act is of primary importance and should be the principal focus of CZM legislation this year.

S. 2622, therefore, is a workable approach. As more States receive approval and OCS activities accelerate in frontier areas, we will all gain more experience in what legislative amendments are really needed.

In summary, the petroleum industry supports S. 2622. The eight new national coastal protection policies should have a good balancing effect in clarifying the overall objectives of the act.

The bill gives equal weight to environmental, recreational, and development concerns, while recognizing the need for multiple and compatible uses of the coastal area, and it broadens the secretarial review authority.

Senator, we appreciate this opportunity to present our views concerning reauthorization of the Coastal Zone Management Act. We will be pleased to continue to work with this committee.

Now, if there are any questions, we'd be happy to try to answer them.

Senator STEVENS. You heard the testimony this morning about Federal consistency. California indicates that the delay factor involved in that review is not as you indicate.

In view of that comment, do you have any further statement to make about the Federal consistency issue?

It seems, as far as the California agency coastal zone management, they are really not that far off the mark.

What's been your experience in California?

Mr. HUNT. If I may answer that, Senator, we are not going to quarrel with the statistics as to the time it has been taking to this point to gain consistency certification from the State of California.

We can only say that we hope that it continues that way. At the same time——

Senator STEVENS. If you compare their track record to the air quality review group, it's a little bit different. I wonder whether you're attacking the right entity?

Mr. HUNT. I think this also speaks to another comment we had in our testimony about trying to resolve the differences between the State agencies and come up with the process whereby speedy approval can be given to activities on these things.

But as I was saying, we certainly hope that the track record in the State of California, which is acceptable to this point, continues.

We do have as an attachment [1] to the testimony, however, a notice to bidders, which those operators who showed up for sale 48 were handed. In effect, it says that on certain tracts which were leased at that sale, they'll not receive consistency certification with the State of California, either because of the State's concern for air quality or because of what they consider to be navigational safety. The State did not wish any structure to be put on any lease within 500 meters of a shipping channel.

They made these points to the Secretary of the Interior. He gave them due consideration, I must assume, and decided to go ahead with the sale without the certification.

The State of California is now telling us that, in regard to these leases, there will not be consistency certification given.

Senator STEVENS. Isn't it a may not?

Mr. HUNT. Yes, may not.

Senator STEVENS. That's a little different from will not.

Mr. HUNT. I think what that is telling us is that there are storm clouds on the horizon.

The problem we have with consistency certification, I think, is going to focus around the point that we are, in the OCS, serving two bosses, the State and Federal Government.

From an administrative standpoint, this gets to be a little difficult.

Senator STEVENS. I understand that, but we live with tornados. You're just looking at clouds.

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[1] The attachments are in the committee files.

Mr. HUNT. I certainly hope there are no tornados, but there are certainly storm clouds on the horizon.

Senator STEVENS. What about that Alaska example, Mr. Barre, the North Slope Borough? Through their proposal, they have a legitimate interest there in terms of their desire for marine life and to protect their culture.

Weren't you a little premature about your comments on the North Slope? Isn't that a little premature?

Mr. BARRE. It is correct, it has been withdrawn. But I think another warning to us, what might happen, rather extensive new requirements were put forth by the borough. And yes, they have disappeared. But we can't be guaranteed they won't be shown again.

Senator STEVENS. I don't know if we can't be shown again. But in the context of their concern, it seems to me at that stage of your development you'd be better off to know them. And you get along so far that you suddenly find yourself in a lawsuit that involves interests that haven't been protected.

Maybe I'm wrong, and that's why we had that provision in mind. But I would hope that the industry would recognize that consistency certification so far—has it really been a delay to the industry? Can you honestly say it has delayed your functions?

Mr. HUNT. No. I don't think we can honestly say, to this point in time, that it has been very prominant in toto. However, I think we must look at the fact that today we are still at the very beginning of this process. The difficulties will likely arise when development and production plans are submitted, rather than exploration plans.

Senator STEVENS. I agree with that.

Mr. HUNT. I think when we see something for example in the North Slope—now, fortunately that was withdrawn, but there were provisions in the coastal zone management program that was submitted by the borough, which would place an entirely new set of regulations on industries, not only as regards their activities on shore and in the coastal zone, but in the Beaufort Sea itself, in Federal waters.

We could see delays, anticipated delays as a result of that, of up to 250 days for just obtaining one permit.

Senator STEVENS. I know, but it just means you've got to confer with those people a lot more along the way, doesn't it?

Mr. HUNT. We are certainly going to confer with them. We have been, and we are continuing to confer with them.

Senator STEVENS. I think it has served its purpose then.

Did you have anything to add, sir?

Mr. CHAMBERLAIN. No thank you, sir.

Senator STEVENS. I appreciate your testimony. I appreciate your summarizing it. I think we're very cognizant of the problems of being able to meet the timetable of OCS projections in order to comply with this act.

At the same time, I hope that you will and that the industry, I believe, can. I hope that it will recognize the intent of the act with regard to that consistency certification. There should not be a delay in the net result. If it is, we'd like to hear from you on that.

Mr. BARRE. We'd be back.

Senator STEVENS. Thank you very much.

[The statement follows:]

STATEMENT OF CHARLES H. BARRE, VICE PRESIDENT, REFINING, MARATHON OIL CO., ON BEHALF OF THE AMERICAN PETROLEUM INSTITUTE AND THE WESTERN OIL & GAS ASSOCIATION

My name is Charles H. Barre. I am Vice President for Refining of the Marathon Oil Company. My statement today is presented on behalf of both the American Petroleum Institute (API) and the Western Oil and Gas Association (WOGA). API is a national trade association representing some 350 companies and 7,000 individuals engaged in all sectors of the petroleum industry. WOGA is a trade association representing more than 90 percent of the production, refining and wholesale marketing in the six western states. WOGA's members are actively involved in Outer Continental Shelf (OCS) exploration and production offshore California. I would like to add that I am a member of the industry's National CZM Steering Committee.

On behalf of both associations, I reaffirm the petroleum industry's support of the overall objectives of the Coastal Zone Management Act (CZM Act). We have given that support since the inception of the Act and our support of these objectives continue to this day. We have also tried—through the industry's National CZM Steering Committee—to contribute to the development of state coastal zone management programs which would best serve the national interest by dealing affirmatively with many needs, not just energy development or te protection of the environment.

It is particularly appropriate for this committee to conduct oversight hearings on the Coastal Zone Management Act at a time when Congress, the Administration and the public recognize the need to reduce our heavy dependence on foreign energy resources. Whatever reevaluation of the purposes and effects of coastal zone management is undertaken, that process must reflect the need to: Conserve energy more wisely; accelerate and facilitate domestic energy from both conventional and alternative fuel sources and; find a way to cut through the bureaucratic red tape which has too often caused critical delays and/or abandonment of major energy projects clearly relating to the national interest.

From the petroleum industry's perspective, the 1976 Amendments to the CZM Act were an effort by Congress to redirect some of the environmental emphasis of the late 1960s and early 1970s. Those amendments appeared to strike a better balance in coastal resource management by giving full consideration to ecological values, to reasonable economic development and to the furtherance of the national objective of increased energy independence. Regarding energy development, Congress attempted to address the full spectrum of concerns by: Requiring an energy facility planning process in state programs; attempting to expedite OCS exploration, development and production plan approval; and creating Coastal Energy Impact Program (CEIP) grants to states to provide better federal financial assistance to meet state and local impacts from OCS energy development.

Congress also directed that state coastal management programs must provide for adequate consideration of the national interest in the planning for and siting of facilities, including energy facilities, necessary to meet requirements of the public interest greater than those which might be local in nature.

However, the 1976 Amendments did not resolve all the problems in coastal management. Of special concern to the energy industry today is the emerging problem arising from the "federal consistency" provisions of the Act by which coastal states or their political subdivisions may obstruct development on the Outer Continental Shelf to the detriment of inland states and the national interest. The Alaska North Slope Borough and California Coastal Management Programs are the first examples that this concern is both real and imminent:

The California Coastal Commission is attempting to use its federal consistency authority to delay or cancel future OCS sales and has threatened to delay or cancel OCS development activities on leases already sold;[1]

Regarding the North Slope Borough, Coastal Zone Management has led to a proposed local zoning program which would subordinate state and national interests to the Bourough's economic and conservation goals.[1 2]

Though well intended, the federal consistency provisions of the CZM Act may be used by some states that have vigorously opposed OCS development as a mechanism to override the statutory authority of the federal government over the commencement, placement, and operations of energy development in federal waters. Clearly,

[1] See attachments to this statement for specific examples.

[2] Although the Borough withdrew its program in January 1980 for further consideration, the interest of the Borough in serving its local interests has not diminished.

this aspect of the consistency provisions is unwise and unnecessary. We think the answer to this emerging problem is in combining certain provisions of the OCS Lands Act and Coastal Zone Management Act.

The OCS Land Act Amendments of 1978 reaffirmed the Secretary of the Interior's primary jurisdiction and responsibility over oil and gas activities outside the territorial jurisdiction of the coastal states. At the same time, this Act spells out the Secretary's responsibility to accept the recommendations of state governors regarding OCS Leasing and development when he determines that their recommendations provide for a reasonable balance between the national interest and the well-being of the citizens of the affected states. Thus, the OCS Lands Act gives states ample opportunity to participate in the OCS decision-making process. If necessary, they also have the right to challenge the merits of the Secretary's determination under federal environmental impact statement review procedures and other legislative and administrative procedures.

The energy industry certainly recognizes the existing authority of State and local governmental entities and their exclusive jurisdiction on land and within State waters to their historic boundaries. Indeed, the Federal consistency requirements make sense there as a reflection of the dual jurisdictions. In the OCS, however, the responsibility for resource development and environmental protection is clearly with the Federal Government. Therefore, it seems appropriate to place primary reliance on the OCS Lands Act's State consultation and coordination procedures which already provide an appropriate balancing mechanism between State and national interests. Some accommodation of the conflicting provisions of the CZM Act and the OCS Lands Act Amendments will remain the petroleum industry's overall goal.

However, at this mid-point in State CZM program approvals and implementation, reauthorization of the act is of primary importance and should be the principal focus of CZM legislation this year. The administration Bill, S. ———, therefore is a workable approach because it strengthens the policy and annual program review of performance sections of the current law without attempting at this point what would be a difficult task of amending Section 307 on Federal consistency. S. ——— provides for reauthorization and important new emphasis to the national coastal management program without jeopardizing reauthorization efforts by proposing major and controversial amendments. The Administration Bill will allow Federal consistency concerns regarding Federal activities to be dealt with administratively first, under the Secretary of Commerce's directive to revise such regulations. Furthermore, this approach will provide more time to gain experience in what is really needed in the way of legislation on consistency as more States receive approval and OCS activities accelerate in frontier areas.

Another reason the petroleum industry supports S. ——— is that the eight new national coastal protection policy goals it would establish should have a good balancing effect in clarifying the overall objectives of the act. The bill recognizes the need for multiple and compatible economic uses of coastal areas while providing the necessary emphasis to the protection of significant natural resources. S. ——— would give equal weight to important environmental and recreation goals as well as to development concerns. It would encourage coordinated and simplified Government decisionmaking and predictable sitting processes for major defense, energy, recreation and transportation facilities. These last two policy goals provide important emphasis to the need for priority siting consideration for coastal-dependent energy facilities lacking in the current NOAA regulations.

However, our support for the Administration amendments today does not diminish our concern that future oversight efforts should focus on Federal consistency and the need for state-level conflict resolution mechanisms now absent among various units of State, regional and local Government in most States. Some form of State review of major development projects by a multi-agency group is envisioned here with heavy emphasis on simplification and coordination of the entire permitting process.

The annual review of performance provisions of the bill include important guidelines by which states will be evaluated in their accomplishments toward achieving recognized national policy goals. Federal funding of approved State programs would and should be contingent on State progress in meeting the eight new national policy objectives. This approach broadens Secretarial review authority to the full range of national interests—not just to national security—and clarifies the purposes of the act which, under the current act's declaration of policy, has been subject to a wide range of interpretation.

By amending Section 312 of the CZM Act, Section 4 of the Administration bill spells out the Secretary's authority to withdraw approval of and financial assistance to State programs under specified circumstances. We assume that whenever the

Secretary withdraws his approval of a State program under this provision, the State involved would no longer be entitled to implement the Federal consistency provisions of Section 307 of the act.

If this is not the intent of Section 312(c) as amended by the Administration bill, we suggest that an amendment be incorporated to that effect. Clearly, a State program which has lost its approved status should not be entitled to Federal consistency authority.

In summary, the petroleum industry supports the Administration Bill. The eight new national coastal protection policies should have a good balancing effect in clarifying the overall objectives of the act; the bill gives equal weight to environmental, recreation and development concerns, recognizing the need for multiple and compatible uses of the coastal area; and, it broadens Secretarial review authority to the full range of national interests.

We appreciate this opportunity to present our views concerning reauthorization of the Coastal Zone Management Act, and we commend the Committee for its stewardship of this program. We will be pleased to work with you and to try to answer any questions you may have regarding our testimony.

INTRODUCTION TO ATTACHMENTS 1, 2, 3[1]

Industry is very concerned that Section 307(c)(3) consistency will be used to further state and local interest, perhaps at the expense of national interest. The current disagreement between the California Coastal Commission (CCC) and the Department of the Interior over Lease Sale No. 48, offshore Southern California, held last June, is an example of this. In the pre-lease negotiation, the Department of the Interior deleted a number of tracts at the request of the CCC. But Interior did not accede to all CCC demands, and accordingly the CCC circulated a "Notice to Bidders" at the lease sale which advised that the state of California will use its consistency powers under Section 307(c)(3)(B) to force lessees to conform to the state policies, whether or not they are accepted by the Department of the Interior and included in the notice of sale.[2] Of particular interest is the state's insistence that its local onshore air quality standards be complied with during offshore operations. This position is at odds with the clear terms of the OCS Lands Act, the Act's legislative history and the recent decision of the U.S. Court of Appeals for the Ninth Circuit, all of which indicate that the Department of the Interior has sole regulatory authority over the OCS in regard to compliance with air quality standards.[3]

Beyond this encroachment on the air quality regulatory authority of the Department of the Interior, the current Interior-California dispute presents other concerns to industry regarding the future of the OCS lease sale program and calls into question the very justification for Section 307(c)(3) as it applies to OCS activities. The mediation process, as authorized by Section 307(h) of the Act, was requested by the California Coastal Commission. The disagreement concerns whether the Department of the Interior's pre-Lease Sale No. 48 activities, which included tract selection and determination of lease selections, directly affected the coastal zone of the state of California and, therefore, fell within the consistency requirements of Section 307(c)(1). In a practical sense, the issue is whether the states have the authority to force the Department of the Interior to incorporate all state conditions and suggestions into the notice of sale. If full certification of pre-sale activities is given to the states, the result will most certainly mean delay in conducting sales, and the Department of the Interior will be powerless to achieve the balance between national and local interests in regard to OCS activities that the OCS Lands Act mandates (Section 19(c)). The problem is aggravated by the present National Oceanic and Atmospheric Administration's (NOAA) regulations which, at 15 C.F.R. 930.32, all but eliminate the fundamental distinction between Section 307(c)(1) and Section 307(c)(B), by calling for federal consistency determinations and construing the phase "consistent to the maximum extent practicable"[4] to mean fully consistent with state programs, unless compliance is prohibited by law. A more complete description of the problems raised by this mediation proceeding and related NOAA regulations is set forth in joint testimony (copy enclosed) offered by API and WOGA at the September 7, 1979, public hearing conducted by NOAA in connection with the mediation.

Lease Sale No. 48 consistency and the CCC-Department of the Interior mediation are not the only recent instances where local considerations threaten to override the national interest. For example, on the North Slope of Alaska where a joint

[1] The attachments were not reproducible and are in the committee files.
[2] Notice to Bidders, California Coastal Committee, June 20, 1979.
[3] Slip. Op. Nos. 78-2363, 78-2617, 78-2922, 78-1932, 78-2277 (9th Cir., Aug. 20, 1979).
[4] *Federal Register*, June 25, 1979, P. 27142, et seq.

federal-state OCS sale in the Beaufort Sea is scheduled for this December, the North Slope Borough indicates it will "oppose all the way to the Supreme Court any attempt to lease before our Arctic CZM Act regime is in place."[5] A plain translation of this position is that the coastal management zoning ordinance now being considered by the borough assembly ought to put the borough in a position to veto any Alaskan North Slope development that is not in the borough's economic self-interest or is inconsistent with the preservation of its subsistence economy, regardless of any state or national interest in new energy development. A number of borough officials hold this view, while others feel some more moderate approach should be found. The outcome is very much in doubt, but the situation is evidence of the potential mischief of local "consistency" authority.

Senator STEVENS. Dr. Roger Anderson.

You represent Gulf & South Atlantic Fisheries Development Foundation today; is that right?

STATEMENT OF DR. ROGER ANDERSON, EXECUTIVE DIRECTOR, GULF & SOUTH ATLANTIC FISHERIES DEVELOPMENT FOUNDATION, INC.

Dr. ANDERSON. Yes, sir.

Thank you for the opportunity to testify this afternoon.

You already have my testimony. I'd like to submit that for the record.

I'd like to briefly make a couple of comments, and then address something I don't believe has come up before, but has been alluded to this morning in some of the conversations between you and the witnesses, as well as Senator Hollings, when he had the chair.

Very briefly, it's simply that many of the consitutents in the coastal zone have been very active in the program to date. However, an industry that you are very familiar with, and I'm certainly familiar with in my part of the country, has not been vocal in coast zone management.

However, with your support, and the other two Members of the Congress that have been involved in this hearing to date, coastal zone management and fisheries can and are becoming increasingly more integrated and, obviously, this is becoming not only of local and State, but Federal importance.

To date, the coastal zone management program has done an admirable job in handling that protection. The States that are in the program and the States that, let's say, have participated in some of the voluntary aspects of the program have shown increased awareness in support of unvegetated shores, et cetera. In 1978, the Office of Coastal Zone Management went a step beyond that and had a coastal zone fisheries program established. The program went into the areas of fisheries management, as well as habitat protection. The sanctuary program, with the estuarine sanctuary and marine sanctuary concept, has taken another step in the same direction.

I think, however, that we must go beyond and look at the analogy that exists between coastal zone management and the FCMA, which you and I and many of the people that are involved in this hearing are intimately familiar with. That analogy is simply that while the coastal zone management program, and many other programs have focused on management, we must now also be aware of the development opportunities. Besides oil and gas, one of which, of

[5] Statement by Mayor Eben Hobson at the Department of the Interior public heaings on the Beaufort Sea joint sale, Barrow, Alaska, June 4, 1979.

course, is fisheries. This means in your State, as well as the States along the gulf and South Atlantic coast, infrastructure development for the expanded fisheries of the 200-mile limit, as well as other questions in which fisheries development, in general, poses some interesting challenges.

I note in the presentations for the new coastal zone amendments, proposed thus far today, that fisheries development is specifically mentioned, along with a number of new constituency interest areas. I would submit to you that the timing is right, that as we move forward and look at coastal zone management in the future, that fisheries and some of the other constitutency interests that have not been historically vocal or active in the program, do indeed play a larger role, and that some of the development issues that we face in our end of the country, your end of the country, and other areas of the coastal zone of this Nation, do become more involved in recognizing some of the development challenges that are going to have to be assisted in the management implementation that we see today.

Those are all the points I want to make. I appreciate your time.

Senator STEVENS. There is no question about the need for increased leadership in this area.

We do have a series of question concerning actions in Florida that we'd like to have you answer for the record if you would. We'd appreciate it very much.

Dr. ANDERSON. We'd be happy to.

Senator STEVENS. Thank you very much.

[The statement follows:]

STATEMENT OF ROGER D. ANDERSON, EXECUTIVE DIRECTOR, GULF & SOUTH ATLANTIC FISHERIES DEVELOPMENT FOUNDATION, INC.

My name is Roger D. Anderson. I serve as the Executive Director of the Gulf and South Atlantic Fisheries Development Foundation, Inc. The Foundation represents research and development interests of the commercial fishing sector from Texas to Virginia. On behalf of the Foundation's Trustees and members, I appreciate the opportunity to respond to your Committee's request for comments on the Coastal Zone Management Act of 1972. Indeed, we are pleased to encourage the continuation of the coastal zone program, particularly as it relates to habitat protection, fisheries management and fisheries development.

As a preface to my comments, please note that the Foundation is a nonprofit, research and development corporation. Directed by a Board of Trustees, composed of industry representatives from throughout the Southeast, the Foundation works closely with government, academic and private organizations to conduct work of direct interest to the commercial fishing industry. Current support for Foundation activities comes from the Coastal Plains Regional Commission, Economic Development Administration, National Marine Fisheries Service, individual states in the Southeast and private business. Over one hundred commercial fishing organizations, banks, insurance companies and marine suppliers provide support.

Turning to the legislative history of the Coastal Zone Management Act, we find that the habitat protection provisions come closest to providing a framework for our interests. Over the past eight years, we've seen the enhanced protection of wetlands, non-vegetated shores and other important coastal environs. We strongly encourage continued efforts to protect these valuable and vulnerable coastal resources, i.e. areas that serve as important nursery grounds, as well as key wildlife niches. Through coastal zone programs, states have addressed these matters by implementing permit programs or adopting measures such as deed restrictions. Habitat protection has received further emphasis through designation of areas of particular concern, another vehicle for protecting living resources and their environs. In addition, some states have undertaken special area management planning efforts to protect sensitive ecosystems. Although its principal purposes are research and education, the estuarine sanctuary program has served as yet another habitat protection device, with seven areas already dedicated, ranging in size from a 700 acre tract in

Ohio to the 190,000 acre reserve in Florida. Most interestingly, even the states that are not currently participating within the federal program have responded to federal habitat protection initiatives.

To ensure that both habitat and fisheries issues are responsive to congressional findings, the Office of Coastal Zone Management implemented a Coastal Fisheries Assistance Program in 1978. Begun as a way of targeting portions of Section 306 grants to fisheries and habitat protection efforts, the program's objectives have been (a) to help establish a comprehensive approach to living resource management; (b) to bring closer together the objectives and operations of state and federal coastal zone management and fisheries habitat agencies; (c) to provide better data on marine living resources; and (d) to improve management of fish stocks.

To date, projects have been or are being carried out in 24 states. Nationwide, about $3.3 million has been expended, primarily for fisheries management ($1.8 million) and habitat protection ($1.5 million). As an example, projects funded in the Southeast include:

1. North Carolina ($250,00—habitat protection). Funds were used to develop the capacity to evaluate wetland permit requests, to conduct field checks before permit decisions and to monitor compliance with permits issued;

2. South Carolina ($40,000—fishery management). Funds were employed to synthesize available biological, economic and sociological information on South Carolina's finfish, blue crab and molluscan shellfish fisheries. The resulting profile will be used to identify further information needs, as well as develop management strategies for the three fisheries noted;

3. Alabama ($101,000—habitat protection). Funds are being used to inventory critical wetland areas. With existing fish catch data, this information will be used to assess the health of such areas and to design a monitoring program that will ensure implementation of the state's coastal policy to maintain the environmental quality of its wetland resources; and

4. Mississippi ($17,000—fishery management). Funds are being used to identify all state agencies with the legal authority to affect fisheries management and the nature of their involvement. This study is a necessary predicate to establishing a long-range state fishery management strategy.

While the fishing industry has considered itself a friend of coastal zone management programs, some concerns have arisen. Perhaps the most striking has been the response to selected aspects of the marine sanctuary program. Though recent administrative action appears to have resolved most of the historic problems, questions still exist as to user activity in and around proposed sanctuaries. While the Southeast takes pride in that both existing marine sanctuaries fall within our region, we're wary of some aspects of current proposals. Suggestions that sanctuaries might be established, with restricted fishing activity, have caused deep concern to both commercial and recreational harvesters. As noted, however, current action by the federal office reflects an increased understanding of these sensitivities. Additionally, NOAA's support, through actions of the regional Fishery Management Councils, has helped to ease much of the tension.

Besides the historic references to fisheries management, we note that development is specifically mentioned, along with other important user issues, in newly proposed legislation. We hope that this will not be ignored. Indeed, though the past fisheries assistance funds have been directed almost exclusively to management and habitat questions, the hope is that future expenditures will recognize other constituency concerns. For example, in fisheries, this might include attention to such issues as infrastructure development, i.e. seafood industrial parks, discussed or planned as part of individual state or regional processes. In so doing, state and federal managers could assist in fisheries development, documenting needs and providing appropriate leadership.

In summary, we recognize the contributions of coastal zone programs and the assistance they provide. We are pleased to offer our support to the continuation of this important program. Further, we are optimistic that greater attention will be paid to the problems of those user groups that have historically derived their livelihood from the estuaries, nearshore and offshore waters of our nation.

Senator STEVENS. Mr. Samuel Tucker, manager of environmental affairs, Florida Power & Light; speaking also on behalf of the Edison Electric Institute, I understand.

STATEMENT OF H. SAMUEL TUCKER, JR., MANAGER OF ENVIRONMENTAL AFFAIRS, FLORIDA POWER & LIGHT CO., ON BEHALF OF THE EDISON ELECTRIC INSTITUTE; ACCOMPANIED BY J. ROY SPRADLEY, JR., COUNSEL

Mr. TUCKER. That's correct, Senator.

Senator STEVENS. May I have the name of the gentleman with you, please?

Mr. TUCKER. Yes. I'm accompanied today by counsel, J. Roy Spradley, Jr.

We have submitted written testimony for the record, Senator, and I'd like to summarize that, if it pleases the Chair.

Senator STEVENS. I appreciate that.

I am sorry I appear to be rushing through this here, because I am. I am supposed to be on the floor at 3, but I decided to stay to finish the people from out of town.

Mr. TUCKER. I appreciate it. It will only take about 5 minutes.

We support comprehensive coastal planning for wise management of our Nation's coastal resources management in the 1980's, in contrast to the exclusive development or preservation extremes which have characterized previous decades.

Mr. Chairman, there were well-founded concerns regarding both the adequacy of protection being given to coastal resources and the impact coastal management may have on the use of coastal resources in the development of energy facilities. However, no hard evidence has been presented that State programs, approved under the act or otherwise fulfilling its policies, will fail to provide sufficient protection for unique coastal resources or unduly prejudice utilization of coastal resources in the development of energy facilities and activities. In short, the jury is still out on the act.

Neither the administration proposal nor the House subcommittee bill provide for any significant substantive changes in the act, but rather are directed primarily at restating its policies. As the chairman is aware, whenever words are altered, experience must be obtained to develop practical meanings. The proposals in the administration's and House subcommittee bills may lead to the circumstance in which Alice found herself in the famous novel by Lewis Carroll, in which the classic advice and the meaning of the words were given:

> "When I use a word," Humpty-Dumpty said in a rather scornful tone, "it means just what I choose it to mean, neither more nor less."

Rather than amending the act to clarify existing provisions, we believe the pursuit of wise management of coastal resources may be best served by continuing the act as is. Congressional direction, if required, could be provided through a committee report.

The House subcommittee provision could result in blanket exclusion of all noncoastal-dependent uses from any undeveloped coastal areas of any participating State. We are uncertain whether an electric generating facility could qualify under the criteria proposed in the House subcommittee bill. Moreover, while steam-electric generating facilities are technologically water dependent, they may not necessarily be coastal dependent. Where husbandry of fresh water resources is of concern, however, as it is in California and Florida, coastal areas must be made available for necessary

electric generating facilities. We recommend that a single criterion of coastal- or water-dependent use be used.

Mr. Chairman, this entire act resulted from congressional recognition that the entire coastal zone is a resource of national significance. We find no demonstrated need for clarification of this policy. If, however, legislative efforts are undertaken concerning the coastal resources, recognition should be given to the unique ability of coastal electric generating facilities to coexist with the environment. My company has numerous examples of powerplants cited in fragile resource areas, where many net positive benefits accrue to fish and wildlife, and vast areas are protected which would otherwise be subject to intense pressure for commercial and residential development.

As presently structured and interpreted by NOAA, grants for the amelioration of impacts from coastal energy facilities are not available to States for impacts from coastal electric generating facilities. Because local impacts, which result from construction, modification, or operation of electric generating facilities, are similar to those of other energy facilities, we believe it appropriate for Congress to make these funds available to States and local governments. The availability of these funds to States would be another incentive for their development and implementation of a management program.

Should the committee elect to undertake substantive amendment of the act, we have provided amendments for the committee's consideration.

We appreciate the opportunity to testify, and we'd be pleased to answer any questions the committee may have.

Senator STEVENS. Is the coal impact problem you mentioned the same as we've discussed here before today? Is it conversion costs for the utilities, or is it actually a problem of coal shipments?

Mr. TUCKER. Senator, I think all of these things need to be considered.

Let me amplify on that if I may. I was here earlier for that discussion.

It's my understanding that the DOE legislation to which you refer provides funds to be used to subsidize the conversion of oil-burning facilities to coal, rather than to mitigate to the impacts that might result from those conversions.

Senator STEVENS. But when you're converting, you have to take more land. For instance, you have to take out 50 slips at a small marina. That's part of the impact.

It would be financed through DOE. At least that was my understanding.

Mr. TUCKER. Yes, sir, that would be. That would be direct conversion. But if there were a secondary impact that resulted from the conversion, that wasn't a part of the cost of the conversion itself, that would not be covered, it is my understanding, under the DOE proposal.

Senator STEVENS. Are you talking about air impacts?

Mr. TUCKER. They could be air. They could be water. The could be social impacts. You could have an increase of police needed in the area, increased schools, increased hospitals, as was mentioned earlier, because of the labor that's coming in for construction activ-

ities. These are the type things that would be covered under the CEIP program, but would not be covered under the DOE conversion funds.

Senator STEVENS. You know, I was involved in the original act, in the amendments, and I really don't think that was covered. At least it wasn't my understanding it was covered.

We were talking about land use resource development to go into the conversion process and using coastal zone management. What's the magic of saying that a utility that converts within the coastal zone ought to have CEIP money, but if you're back beyond the zone, you don't get any money at all?

That's a national problem of conversion; it has nothing to do with the coastal zone where a utility is located. And that money must come out of the DOE budget, in my opinion. I just don't understand that conversion funds are in any way related to the changes of source of energy, that they ought to get special treatment within coastal zone management as compared to what it would get in the rest of the country.

Mr. TUCKER. I would not disagree with your philosophy, Senator. But I would point out that the coastal impact energy funds, as presently being distributed, are restricted to activities in the coastal zone, even though those activities may be conducted outside the coastal zone and would not be eligible.

Senator STEVENS. That's because we made a finding that most of them, we envisioned at the time, would have an impact upon the estuaries, the whole problems of the oceans. And we were basically concerned with coastal zone management.

But to say you are going to shift to coal, why would it make any difference whether you are going to be sitting in Hermosa Beach with Edison's plant there or one down in Florida, or one in Michigan? What's the difference?

What about the one sitting in Kansas or Iowa? I mean, the problems are identical in terms of conversion. A mere accident of location in the coastal zone, it was not our intent to take care of that problem.

Now, if they're going to start mining coal in the coastal zone and there would be erosion problems and problems that would impact the coastal zone, I think it would be there.

But I really, for the life of me, don't see this impact problem, as far as the original intent of the Coastal Zone Act and the amendment that we put through to it, as being something that's unique to the coastal zone.

We were looking to the problems that were unique to the coastal zone and trying to find special moneys to assist the States and communities to meet those problems, particularly the onshore impacts of onshore developments and the offshore impacts of onshore development.

I don't see, in your instance, where there's any impact offshore from conversion on the Great Lakes or on either of the coasts that would not occur in, as I say, Kansas or Iowa.

And I really think that if we go that far, we're going to lose support on this if we start saying that we've got a special case for use of Federal funds for just those people within the coastal zone that aren't going to be available to these other areas.

Mr. TUCKER. Well, I think, of course, there's another bill, I believe, in the Senate at the present time that addresses that problem.

Senator STEVENS. There's one that addresses that specifically everywhere in terms of energy conversion. And I really think it's already in DOE. I think they have the authority today, wherever plants are located, to enter into financing arrangements if it is a conversion process.

Mr. TUCKER. The main thrust of our testimony, Senator, is that we feel that if these funds are going to be used to mitigate energy impacts on the coastal zone, that electric generating facilities should be given equal treatment.

Senator STEVENS. Let's go to another subject, then. You want a 2-year reauthorization with no amendments. Both of the bills that we have have got a 5-year reauthorization, as you know.

We had two States approved before 1978, and 10 in 1978. Why do we need just in effect a 2-year period to get a track record? Haven't we got the track record already?

Mr. TUCKER. No. We don't feel that we do have the track record. We have a track record in the development stage, but not in the actual program stage of the implementation of programs. Most of them are very new. We haven't had a chance to see these things in operation yet, at work yet.

What we're saying is that we need at least 2 years. We would have no objection to additional time. We feel that we need, in addition, at least 2 additional years in order to evaluate the effectiveness of the present act.

Senator STEVENS. I hope that that effectiveness can be evaluated through the appropriations process. It is, after all, just an authorization process. We looked at it annually in our appropriations process. But I really think when you get down to reauthorizing an act like this every 2 years, it's too short a period.

I've got to tell you, I would hope that you reexamine that question, get ample opportunity to appear at appropriations committees. We've not been elected to put legislative language on appropriations bills to mitigate effects that we had not foreseen.

I would hope that the industry would not ask us for a 2-year bill. It's too short a time for planning and for States to really be intent enough to gear up for State legislatures to react.

We pass a bill one year, we fund it the next. Meanwhile, the State legislature doesn't get around to it until the third year.

I really don't think that's a long enough time to be dealing with State and local governments having just a 2-year authorization. So I would urge you to reconsider that. That's just my own personal comment.

Did you have anything to add, sir?

Mr. TUCKER. Senator, we would support 5 years. Again, we said "at least" 2 years. Five years would be fine. We just feel that the words don't need to be changed at this time.

Senator STEVENS. All right. Thank you very much. We appreciate that.

Mr. SPRADLEY. I would also like to express our appreciation for being here and our congratulations to you for your receptiveness on the issues. We do have a number of technical comments on the

specific proposals which are contained in the administration and House subcommittee bills. And if this committee intends to get into that detail of reauthorizing the act, we'd appreciate the opportunity to work with the staff.

Senator STEVENS. As you know, I'm not on this committee, but I usually get to the markups. And the public is invited. I do hope they will get to this bill.

Thank you.

Mr. TUCKER. Thank you.

Senator STEVENS. Again, there may be questions submitted to you, gentlemen, on behalf of members who are all over the place this afternoon. I'd appreciate it if you would respond to them.

Mr. TUCKER. Yes, sir, we'll do that.

[The statement follows:]

STATEMENT OF W. SAMUEL TUCKER, JR., ON BEHALF OF EDISON ELECTRIC INSTITUTE

I am W. Samuel Tucker, Jr., Manager of Environmental Affairs, Florida Power & Light Company. My testimony today is given on behalf of the Florida Power & Light Company and the Edison Electric Institute. My company provides electrical service to the east coast and southern one-third of the State of Florida. Edison Electric is the association of investor-owned electric utilities. Its members provide approximately 78 percent of the nation's electiricty needs, serving over 99 percent of all ultimate customers of the investor-owned sector of the industry, and operate in each of the 30 coastal States.

We wish to express our appreciation for the opportunity to testify today on the Coastal Zone Management Act (Act). Accompanying me today is J. Roy Spradley, Jr., our counsel on coastal issues. At the conclusion of my statement, we would be happy to answer any questions the Committee may have.

INTRODUCTION

The electric utility industry supports comprehensive coastal planning for wise management of our nation's coastal resources. We believe the Act and State programs thereunder are and will be a significant factor in the realization of this objective.

As we see them, the 1980s are a critical period in which stewardship and wise management of our nation's resources are essential—in contrast to the exclusive development or preservation extremes which have characterized previous decades.

We gave testimony to the House[1] which sets forth our industry's forecast of electric energy facilities we feel be required between now and the year 2000, and our concerns with the implementation of the Act. The Act recognizes the need for utilization of coastal resources for development of energy facilities, particularly those necessary in the national interest, as a part of wise coastal management. We will not discuss these findings in this testimony but would, of course, be pleased to respond to any questions the Committee may have.

Our testimony today will address our reactions to the legislative proposals for the reauthorization and amendment of the Act initiated by the Administration and the House Oceanography Subcommittee, additional recommendations of the Edison Electric Institute, see Attachment A, should the Committee elect to undertake substantive amendment of the Act, and some general comments concerning whether it is appropriate to amend the Act at this time.

THE ADMINISTRATION BILL

The Administration proposes amendment of the Act to clarify Congressional policy concerning coastal management and to tie a portion of funding of state programs to "significant improvements" toward meeting those objectives. Of the eight "national interest" criteria proposed by the Administration, 3.5 deal with procedures for decision making, 3.5 with preservation of coastal resources and one (two halves) with development of coastal resources. With certain reservations, discussed below, we are generally supportive of the Administration Bill.

[1] See testimony of W. S. Tucker, Jr., before House Merchant Marine and Fisheries Committee, Subcommittee on Oceanography (Oct. 10, 1979).

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While Edison Electric agrees that further clarification of the "national interest" provisions of the Act is appropriate, we recognize the difficulty inherent in redrafting the Act without also precipitating additional uncertainties. For example, does the "new" policy of "priority consideration for coastal-dependent uses and orderly processes for siting major [energy] facilities" under proposed section 303(b)(3)(i), alter the requirements for "adequate consideration of the national interest in the planning for, and in the siting of [energy] facilities" and a "planning process for energy facilities" under sections 306(c)(8) and 305(b)(8).

Even though the Administration Bill contains no substantive amendment to the Act, NOAA has indicated, additional rulemaking will be required to implement it. We merely caution that, in an effort to "clarify" the Act, words which have acquired meaning, as a result of years of administrative processes and litigation, not be replaced or supplanted with new words which must than undergo the same rigors of practical application until functional meanings are derived. Amending the policy provisions of the Act may have precisely that effect. And, it may delay, rather than expedite, progress toward wise management of resources, while lawyers on all sides argue over the "meaning" of these new words.

As the Chairman is aware, whenever words are altered, experience must be obtained to develop practical meanings. The proposals in the Administration and House Subcommittee Bills to restate the policies of the Act may lead to the circumstances in which Alice found herself, in the famous novel by Lewis Carroll, in which the classic advice on the meaning of words was given: "When I use a word," Humpty Dumpty said in a rather scornful tone, "it means just what I choose it to mean—neither more nor less."[1]

A preferable approach available to the Committee is to provide desired clarification through a Congressional Report on the Act, rather than amendment of the Act.

Should the Committee elect, however, to clarify through amendment, we recommend that the policy proposed in section 303(b)(3)(i) be restructured to specify "priority siting" for coastal-dependent uses. This change is necessary to conform the policy statement with the substantive requirements concerning siting in sections 306(c)(8) and 305(b)(8). It is also needed to provide a more positive requirement for fulfillment of energy needs through wise management of coastal resources.

As the Committee is aware, legislative proposals have been introduced (H.R. 6930, S. 2740) to mandate utilization of coal at 107 existing electric generating units, two-thirds of which are in coastal counties. Further, if national goals for reduction of dependency of foreign oil imports are to be achieved, replacement of other existing oil-fueled facilities in coastal areas may be necessary. In addition, construction of new facilities will be required to replace retired facilities and meet increasing demands.

We believe that these national concerns require, not "accommodation" of each and every energy facility, but, a positive burden on the coastal manager to share in the responsibility for provision of necessary energy facilities through wise management of coastal resources, just as he has responsibility for husbandry of unique and fragile resources critical to the maintenance of our environment and economy.

THE HOUSE SUBCOMMITTEE BILL

With regard to the revised Congressional declaration of policy in the House Subcommittee Bill, H.R. 6979, our concerns are similar to those discussed above. As we have stated, in order to balance national objectives for protection and development of coastal resources, a policy providing for siting of necessary coastal-dependent facilities of national interest is required. The overall national objective of the Act, as we see it, is to merge considerations of competing users of coastal resources to provide the wise management and stewardship of resources which we all desire.

In addition to restating Congressional policies for coastal management, H.R. 6979 would create a new program requirement concerning "coastal resources of national significance." (Proposed section 306(i).) The Bill would define the term "coastal resource of national significance": Any coastal wetland, beach, dune, barrier island, reef, estuary, or fish and wildlife habitat, if any such area is of substantial biological or natural storm protective value.

And encourage states to inventory and designate areas that contain these resources and establish enforceable standards to protect such resources. As we learned from the implementation of section 404 of the Clean Water Act, the term "wetland" cannot be readily defined and embraces extremely vast geographic areas. Because of its broad, vague definition, the House Subcommittee provision could result in blanket protection of any undeveloped coastal areas of any participating state. In the state

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[1] Through the Looking Glass, in the Complete Works of Lewis Carroll, 196 (1939).

of Florida, for example, it is not inconceivable that the entire state could fall within the proposed definition.

While the proposal does make provision for certain uses in designated areas, it is not clear whether electric generating facilities qualify. Let me illustrate our concern. No noncomplying use is permissible unless: (1) It is coastal-dependent; (2) its benefits significantly outweigh damage to resources; (3) there is no practicable, less damaging alternative; and (4) all reasonable on-site mitigation is taken. First, there is no definition of the term "coastal-dependent"; hence, extensive rulemakings will likely be required before the use exception provision is available. Moreover, while steam electric generating facilities are technologically "water-dependent," they are not wholly "coastal-dependent". However, wherever husbandry of freshwater resources is of concern, as it is in California and Florida,[2] coastal areas must be made available.

The three other criteria involve judgements for which neither the criteria nor decision makers are clearly identified. In addition, the criteria are similar to those employed by federal agencies under NEPA, and their review by state coastal managers may be redundant and result in conflicting decisions. Because they are made from a coastal perspective, the criteria are styled such that positive decisions toward coastal siting of energy facilities are unlikely regardless of necessity and national need.

We are not aware of specific failures in coastal zone management efforts which make the House Subcommittee's provision necessary. Moreover, it is redundant to the existing requirement in section 305(b)(3) for inventory of "areas of particular concern" and adds no new dimension to coastal management which could not be provided by regulation under existing authority in response to Congressional direction by Report. H.R. 6979 provides for protection but not for multiple use resource management. Any regulation of coastal resources must fully integrate the national interest in coastal management, i.e., the management, beneficial use, protection and development of coastal resources. Notably, the proposed section 306(i) in H.R. 6979 provides for protection but not development of resources. Both are required for wise management to result. For these reasons, we recommend against amending the Act to include this provision.

H.R. 6979 proposed termination of the Coastal Zone Management Advisory Committee (Committee). This, we feel, is a mistake. More so than perhaps any other federally funded program, coastal zone management is effected through the states. The Committee, comprised of representatives of various interests from the coastal states, provides a much needed monitoring of the NOAA activities to implement the Act.[3]

In order to eliminate duplication, we recommend deletion of coastal zone management jurisdiction from the National Atmospheric Committee on Oceans and Atmosphere (NACOA).[4] Coastal management is too important and too different from other activities conducted by NOAA, e.g., marine and atmospheric science and service programs, to be reviewed solely as one of many conducted by NACOA. We feel that a strengthening of the Coastal Zone Management Advisory Committee would be far more effective in providing needed public review of the Act.

The House Subcommittee Bill does contain an innovative provision to encourage wise management of resources, the Resource Management Improvement Grants proposal. Under the proposal, eligible coastal states could obtain grants for the preservation or restoration of specific areas, the redevelopment of certain urban waterfronts and ports, and provision of public access to coastal areas. The grants would be available for a wide variety of specific uses and would promote tangible results from approved state coastal management programs. The new grants program would, we believe, serve as a significant encouragement to states not yet implementing approved programs and would assist in appropriate protection and development of coastal resources. However, for reasons discussed above and its general immateriality to objectives of the grants program, we do not believe state

[2] For example, the Council on Environmental Quality concludes that "drinking water supply in water starved areas" is one of the "three basic and difficult problems concerning safety of drinking water", and that "much of the West experiences water shortages." Environmental Quality, 1979, 162 (Dec. 1979).

[3] Moreover, because the $75,000–$80,000 annual budget for the Committee is funded from general appropriations for administration of the Act, its termination would not result in reduction of authorizations for appropriations under the Act. Rather, any unauthorized budget for the Committee would revert to NOAA.

[4] By comparison, NACOA operates on a $500,000–$600,000 annual budget. Although its statutory charter would suggest that one-third of its efforts involve coastal zone management, this has not been its practice.

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eligibility for these grants should be determined on the basis of compliance with proposed section 306(i).

AMENDMENTS RECOMMENDED BY EDISON ELECTRIC INSTITUTE

Should the Committee elect to undertake substantive amendment of the Act, the Edison Electric Institute wishes to recommend for the Committee's consideration, amendments to the Act grouped into four functional areas:

(1) Technical amendments to the Act to simplify implementation of the Act by utilizing more consistent terminology throughout the statute;

(2) Clarification that section 307 of the Act does not apply retroactively to facilities pre-existing state management programs;

(3) Amendments to section 308 of the Act to make funds available to ameliorate impacts from coastal electric energy facilities, including any impacts from utilization of coal; and

(4) Amendments to section 3(a)(1), and 3(d)(1) of the National Advisory Committee on Oceans and Atmosphere Act to delete coastal zone management responsibility of the NACOA.

The specific amendments are appended as Attachment A. We will not review them individually, but would be pleased to answer any questions the Committee may have concerning them.

GENERAL COMMENTS

There are well founded concerns regarding both the adequacy of protection being given unique coastal resources and the impact that coastal management may have on the utilization of coastal resources in the development of energy facilities. However, no hard evidence has been presented to indicate that state programs approved under the Act, or otherwise fulfilling its policies, will fail to provide sufficient protection for unique coastal resources or unduly prejudice utilization of coastal resources in the development of energy facilities and activities. In short, the jury is still out on the Act. It is, therefore, our belief that action by the Congress at this time to amend the Act, other than to extend its authorization, is premature.

We believe the pursuit of wise management of coastal resources can be best served by continuing the Act as is, with the recognition that adjustments may be required in the future, until state programs now being developed can be approved and coastal management efforts in all states evaluated as to their effectiveness in management of coastal resources.

According to NOAA's most recent report on the status of state programs, a two-year period is necessary in order to complete decisions on programs now being developed. During this two-year period, serious oversight of the Act and its implementation could be conducted to determine whether adjustments are necessary to achieve the wise management of coastal resources sought by Congress in the enactment of the legislation. At the end of the two-year period, amendments if necessary, could be given serious consideration.

We believe a two-year reauthorization of the Act will provide sufficient time for the electric utility industry to provide substantive imput to the Committee concerning the success or failure of management efforts initiated to implement the Act. For example, by the end of that period, coastal electric generating facilities will have experienced consistency review. In addition, under legistation now pending in Congress, or under authority of existing statutes, certain existing electric generating facilities in coastal areas will be required, as a result of the national interest and security in reducing dependency on foreign imports of petroleum, to convert to the use of coal as a primary energy source. The success or failure of the response of coastal management to this national interest will provide additional documentation for the Committee's consideration. Also, by the end of the two-year period, states electing not to participate in coastal management under the Act can be identified by NOAA and their state programs concerning coastal resources analyzed to determine whether they, nonetheless, fulfill the objectives and policies of the Act.

Even without consideration of the substantive amendments such as those proposed in the House Subcommittee Bill, proposals in the Administration Bill to restate the Act's policies may serve to delay or confuse, rather than accelerate and clarify, efforts to manage coastal resources.

Based on the concerns expressed above, the lack of demonstrated need for legislation and the uncertain benefits associated with the amendments proposed by the Administration and House Subcommittee, it is our recommendation to the Committee that the Act be reauthorized without amendment at this time.

We appreciate the opportunity to appear today and hope the Committee will give serious consideration to our concerns. We would be pleased to try to answer any questions the Committee may have.

ATTACHMENT A—EDISON ELECTRIC INSTITUTE AMENDMENTS

1. Technical amendments to the Act to simplify implementation of the Act by utilizing more consistent terminology throughout the statute.

(a) Amend section 302(i) to read as follows: "The national objective of attaining a greater degree of energy self-sufficiency would be advanced by requiring the establishment of a planning and siting process for energy facilities likely to be located in, or which may directly affect, the coastal zone and by providing Federal financial assistance to meet state and local needs resulting from new or expanded energy activity in or directly affecting the coastal zone."

(b) Amend proposed section 303(b)(iii) of H.R. 6956 as proposed section 303(2)(c) of H.R. 6979 by striking out "consideration" and inserting in lieu thereof "siting".

(c) Amend the third sentence of section 304(l) by striking out "have a direct and significant impact on the" and inserting in lieu thereof "directly affect."

(d) Amend section 305(b)(5) by striking out "particular" and inserting in lieu thereof "coastal".

(e) Amend section 305(b)(8) by striking out "significantly" and inserting in lieu thereof "directly".

(f) Amend section 306(c)(8) by (1) striking out "significantly" and inserting in lieu thereof "directly"; and, (2) striking out "other than local in nature" and inserting in lieu thereof "of more than local significance".

(g) Amend section 306(c)(9) by striking out "other than local in nature" and inserting in lieu thereof "of more than local significance".

(h) Amend section 306(d)(1) by inserting after "competing uses" the phrase "and various units of state and local government."

(i) Amend section 306(e)(2) by striking out "regional benefit" and inserting in lieu thereof "more than local significance."

(j) Amend section 307(c)(3)(A) by (1) striking out "affect" and inserting in lieu thereof "directly affect," (2) striking out "six months" and inserting in lieu thereof "three months", and (3) striking out "interest of national security" and inserting in lieu thereof "national interest or security."

(k) Amend section 307(c)(3)(B) by striking out "interest of national security" and inserting in lieu thereof "national interest or security."

(l) Amend section 307(d) by striking out "interest of national security" and inserting in lieu thereof "national interest or security."

(m) Amend section 307(h) to read as follows: "In case of serious disagreement between any Federal agency and a coastal state in the development, final approval, implementation or amendment of a management program, the Secretary, with the cooperation of the Executive Office of the President, shall seek to mediate the differences involved in such disagreement and shall not grant final approval of a state program or program amendment until completion of any pending mediation action. The process of such mediation shall, with respect to any disagreement, include public hearings which shall be conducted in the local area concerned."

(n) Amend section 308(g)(1)(C) by striking out ", in the judgment of the Secretary,".

2. Amend section 307 of the Act to eliminate redundant review of pre-existing facilities.

(a) Amend section 307(c)(3)(A) by striking out "an activity" and inserting in lieu thereof "any new activity."

3. Amend section 308 of the Act to make funds available to ameliorate impacts from coastal electric energy facilities including any impacts from utilization of coal.

(a) Amend section 304(4) to add: "(iv) Any electric energy facility necessary in the national interest or security."

(b) Amend the first sentence of section 308(c) by inserting after "facilities" the phrase "licensed for construction and/or operation and certified under section 307."

4. Amend sections 3(a)(1) and 3(d)(1) of the National Advisory Committee on Oceans and Atmosphere Act to delete coastal zone management responsibility of the NACOA.

(a) Amend sections 3(a)(1) and 3(d)(1) of the National Advisory Committee on Oceans and Atmosphere Act by striking out "coastal zone management."

Senator STEVENS. Lee Carpenter, League of Women Voters.

According to our record, Ms. Carpenter, you're the last witness here today.

STATEMENT OF LEE CARPENTER, LAND USE CHAIR, LEAGUE OF WOMEN VOTERS; ACCOMPANIED BY LLOYD LEONARD, LEAGUE OF WOMEN VOTERS

Ms. CARPENTER. My representation here as a member of the League of Women Voters continues a series of involvements which the league has had in coastal issues. We originally had strong support of the Coastal Zone Management Act in 1972. We again supported the amendments in 1976.

In addition, our State and local leagues have made continual efforts by working to promote passage of legislation, necessary legislation at the State levels.

One primary interest that the league has had throughout this process has been in promoting citizen participation. We have actively pursued that at the State and local level also. Today we are here to express our strong support for the reauthorization of the Coastal Zone Management Act, and particularly the new coastal policy goals as outlined in the administration's bill.

These policy objectives will provide guidance to the States and Federal Government in implementing coastal programs.

We were especially pleased to see the inclusion of the objective which states protection of significant national systems such as dunes, estuaries, fish and wildlife habitat, because leagues have reported to us that the current programs inadequately protect these resources.

We believe that the coastal zone management program is just beginning to show results. In its first year it's in its childhood, so to speak, still. But the money has been well spent and it would be a mistake to cut the program off now.

Thus, we cannot support the phaseout of funding as outlined in the administration's bill. We feel that to do so would send signals out to the country that the Nation is not truly committed to the protection of coastal resources.

We feel it's important to give States time to operate their program as to become aware of the value of those programs so that eventually they will be willing to assume financial responsibility themselves.

We think it makes good sense to establish continual review process as outlined in the administration's bill. This should insure that States are constantly working to improve their programs.

We would urge the committee to include resource management improvement grants in the legislation similar to that which was proposed in the House Merchant Marine and Fisheries Committee bill.

These grants could provide money to revitalize urban waterfronts, to secure access to the coast and to perserve coastal resources.

All of these are objectives which are consistent with the coastal zone management program. The League is especially concerned with the impact of Federal activities on coasts.

Congress recognized this originally in the Coastal Zone Management Act when it provided for Federal consistency. But where States do not have approved programs, there is a gap and no protection is provided.

Therefore, we would recommend where there is no State approved program, that all Federal activities and programs be consistent with the protection of coastal resources of national significance.

The criteria for exceptions should be limited to: One, where the use is coastal-dependent; two, where the benefits significantly outweigh the costs, three, when there is no practicable alternative on occasion for the use, and four, when all reasonable litigation is provided.

We emphasize that this only applies to cases where the States do not have approved programs, only for Federal activities which utilize Federal money and only for coastal resources of national significance and only when those four criteria are met.

The citizen participation element is one which has not been referred to today. In previous testimony, we feel this is very important in the 306 phase of the program. Public participation was an important element of the planning process. We think it needs to be continued because the citizen's voice does add another dimension to the total picture.

We would suggest that the Secretary of Commerce develop regulations providing for citizen participation in all pnases of CZM programs.

Senator STEVENS. Could I inquire about that? I agree with you about citizen participation, but only if it does not mean that after a plan is envisioned, that those who are in a minority and did not support it would then have some additional rights to delay.

Are you envisioning any kind of citizen participation that could lead to litigation or to delay of the plan once it's adopted and approved?

Ms. CARPENTER. I would not see citizen participation as a tool for delay. In that case, what I think we're talking about is an opportunity for citizens to participate at all levels of the planning and the implementation.

Senator STEVENS. You're talking primarily about the implementation of the plan after it's been adopted.

Ms. CARPENTER. Yes. I think there needs to be an opportunity, whether it's through that continual—that annual review process, I think there's an opportunity for citizens to be involved with submitting comments during that annual review process.

Senator STEVENS. You've got a good point and I did look over your statement in that regard. And I think we should move to strengthen that part. But I hope we would do it in a way that would not give rise to any right of a dissident group to delay the plan once it's gone through the procedure and then adopted.

The comments and the input on implementation and the need for public participation, I think, is an acute phase. But I just envision another series of lawsuits in some of these plans.

Ms. CARPENTER. I think what we're talking about is the purpose of the citizen participation would be to make sure that the law, as it has been interpreted, is implemented. We're not talking about something over and above that. We want to make sure that the law is complied with.

Senator STEVENS. I understand. Very good.

Ms. CARPENTER. Which leads me directly to our next point, which is that we are supporting the citizen suits to enforce the compliance with the law. We think it's important that there be explicit congressional recognition of the validity of citizen suits and the funding for reasonable litigation costs and clear conferral of citizen standing.

Senator STEVENS. You heard the previous comment about authorizing people to be involved in lawsuits that weren't involved in the beginning of the process. You're not suggesting that, are you?

Ms. CARPENTER. No. I'm suggesting that the reauthorization include a citizen suit provision similar to the ones that are also provided in the Clean Air Act and the Toxic Substance Act.

In other words, an opportunity for there to be some enforcement of compliance with the law, strictly reasonable, which, obviously, is open to interpretation.

In conclusion, the League of Women Voters of the United States supports the reauthorization of the Coastal Zone Management Act. We support the clarified policy objectives proposed by the administration, but do not think that funding should be phased out. And we do favor the addition of a stronger element of citizen participation in the 306 phase.

Points that I have outlined here are more fully developed in the testimony that was submitted.

Thank you very much.

[The statement follows:]

STATEMENT OF LEE CARPENTER, LAND USE CHAIR, LEAGUE OF WOMEN VOTERS OF THE UNITED STATES

I am Lee Carpenter, Land Use Director of the League of Women Voters of the United States, a citizen education and political action organization composed of over 1,350 local Leagues in the 50 States, the District of Columbia, the Virgin Islands and Puerto Rico. The League began its long history of involvement in coastal and inland water resource issues with a membership study of these issues in 1956. In the early 1970's we strongly supported establishment of the Federal Coastal Zone Management (CZM) program, anticipating that the program would provide both a forum for resolving conflicts over land and water uses in the coastal zone and some protection for fragile coastal resources. In 1976 we supported amendments to the program to enhance the ability of States to evaluate the costs of increased energy production and cope with the consequences. And througout the past five years, Leagues in every coastal State have been actively working for the development of strong, comprehensive State coastal programs. Realizing the need for citizen support to make these programs work, Leagues have undertaken a variety of efforts to encourage widespread citizen interest in the development of these programs. Most recently, the League has joined with other groups to sponsor the Year of the Coast to draw attention to the value of coastal resources.

We support the reauthorization of the CZM program and the new coastal policy goals as called for in H.R. 6956, the Administration bill. But, at the same time, we believe that more extensive modification of the CZM program is required to allow the program to reach its full promise.

The League supports the establishment of clear policy objectives listed in H.R. 6956 to guide the States and Federal Government in implementing programs. Without clear objectives, programs will flounder and money will be wasted. Since many Leagues have expressed concern that current State programs provided inadequate protections for critical coastal resources, we applaud especially the objective of protecting significant natural systems such as wetlands, dunes, estuaries, and fish and wildlife habitats. The other policy goals are also important: management of coastal development to minimize the loss of life and property; public access for recreation; timely and effective public participation in coastal zone management; orderly, coordinated, and predictable sitting and other decision-making processes; and priority for coastal dependent uses over non-dependent uses. In addition, we are glad to see that the preservation and restoration of aesthetic, historic, and cultural

coastal features are included as policy objectives. The establishment of these objectives will continue the focus of the CZM program on the development and implementation of processes at the State level to resolve conflicts over land and water uses in the coastal zone. At the same time, they will help insure that critical resources of national concern and other national interests will be protected.

REAUTHORIZATION AND FUNDING

The League supports reauthorization of the CZM program because the program is beginning to have a positive effect on the management of the nation's coasts. The Federal funds spent for program planning and institution building during the last five years have, on balance, been a good Federal investment. But the value of that investment, and the value to the nation of balanced policies for the coasts cannot be fully realized unless the program continues and is improved. Many States are in the critical early stages of program implementation. It would be a mistake not to reauthorize the program and to lose the momentum which has been built. Stability of funding is particularly important for this program because its success is dependent on the success of State programs.

For this reason we cannot support the phase-out of funding provided for in Section 306(2). Although it may be wise to consider a phase-out at a later date, to do so now would be premature. It is extremely important that States opt to stay in the CZM program. We think more time is needed for States to operate their CZM programs, work out difficulties and realize the benefits of the program. Once the benefits of coastal programs become apparent—increased access to the coast, orderly procedures for decision-making—States should be more willing to bear a greater share of the financial burden.

We do think, however, that if States continue to receive full Federal funding, that an increasing percentage of their 306 grant money should be spent to meet the clarified policy objectives of the Act as requied by H.R. 6956. This should bring about steady improvement in programs while not disrupting programs which are underway. However, we think that the language in H.R. 6956 requiring "an increasing percentage . . . each year" is too loose. Some States may now be spending a small sum towards achievement of policy goals so that the proposed requirement could result in only the slightest, token increase. Because of the importance of meeting the objectives, we believe that the law should set a minimum percentage of Section 306 grant money that should be spent on meeting the objectives. We do recognize that it could be unfair to require States already spending a high percentage of grant funds on meeting the objectives to continue to increase that percentage while other States still lag behind. We believe an incentive mechanism should be built in so that states which do a good job toward meeting coastal objectives would be eligible to receive additional funds for special purpose programs we will discuss later.

REVIEW OF PERFORMANCE

The League supports continual review of state CZM programs as provided in H.R. 6956. We also support giving the Secretary some discretion to reduce Section 306 grants for States which fail to make significant improvements in achieving the clarified policy objectives as well as withdraw funding entirely. This is a flexible tool and will encourage better programs. We believe the Secretary should be allowed to withhold any percentage of funds appropriate for failure to make improvements, though we do not favor a 100-percent cutoff unless there is continued and substantial failure to make improvements or develop adequate programs. A financial incentive for States which do make good progress would be in order. Furthermore, we think this section should be amended to require opportunities for the public to participate in the reviews. The public can often provide insights in the program workings not available from the administrators.

RESOURCE MANAGEMENT IMPROVEMENT GRANTS

We urge the Senate to establish provisions for resource management improvement grants similar to those presently under consideration by the House Merchant Marine and Fisheries Committee. Under the House provision, grants would be available for revitalizing urban waterfronts, securing public access to the coast, and preserving coastal resources. H.R. 6956 acknowledges these as important goals for the CZM program. A special funding program would give greater assurance that these goals are met.

The need for increased public access is well known. According to some estimates, as little as 2 percent of the nation's shoreline is accessible to the public for recreational uses. In some cases the demand for these areas is so great that use exceeds

the carrying capacity, resulting in damage to natural resources. So it is especially important that access grants be provided.

Urban waterfront revitalization is similarly important. Tremendous value has been invested in urban ports; revitalization will protect that investment. We are quite encouraged by efforts already underway to revitalize urban waterfronts but funds for this purpose have been extremely limited. Cities need the additional funds that this grant program would bring. Of course, any project undertaken by such a grant program should be consistent with the clarified policy objectives, especially protection of coastal resources.

Because the resource management improvement grants are aimed at meeting the same problems as the overall CZM program, they should be an integral part of that program. The grants should be available to those states participating in the CZM program and priority should be given to those states making the greatest progress toward CZM goals.

FEDERAL ACTIVITIES AND COASTAL RESOURCES OF NATIONAL SIGNIFICANCE

Perhaps the most important impact on the coasts is the impact of federal programs and activities. The Congress recognized this when it provided in the Coastal Zone Management Act that federal programs and activities should be consistent with approved state CZM programs. However, a gap remains. If a state does not have an approved program, then federal activities may be carried out in a way counter to the needs of coastal protection. This is a particular problem where federal activities cause or contribute to the destruction of wetlands, beaches, dunes, barrier islands, reefs, estuaries, and fish and wildlife habitats—coastal resources of national significance.

We therefore urge the Congress to require that where the states do not have approved CZM programs, all federal activities and programs be consistent with the protection of coastal resources of national significance. We do believe that destruction of these important resources can be justified in very limited instances—where a use is coastal dependent, the benefits significantly outweigh the costs, there is no practicable alternative location for the use, and all reasonable mitigation is provided. Exceptions to the protective standards should be allowed in such cases.

We also urge that states be encouraged to protect coastal resources of national significance as a part of their CZM programs. If a state chooses not to protect such areas, then the federal government should control the impacts of its own activities, as I discussed above. We do not see this as setting-up a mandatory CZM program. Rather, it is a vital step to ensure that the federal government acts in conformance with its own coastal policies.

CITIZEN INPUT

Citizen input, through public participation mandated by the CZM Act, has been vital to the development of good state programs. Leagues in many states have reported that public participation during the development phase was excellent. But the law does not set any requirements for public participation during the Section 306 phase. So once a state program is approved and implementation begins, citizen participation efforts have tended to diminish. Since CZM programs are constantly evolving, public participation is necessary every step of the way. H.R. 6956 makes it clear that timely and effective public participation is a policy objective. We believe the legislation should go further and require that the Secretary of Commerce, in cooperation with the states, develop regulations specifying minimum guidelines for public participation in all phases of the CZM program at all levels of government.

There is another element of citizen input which we believe is very imprtant: citizen suits to enforce compliance with law. Now that the program is for the most part in the implementation phase, federal requirements and state programs must actually be followed. If they are not, much money will have been wasted. We believe the addition of a citizen suit provision would provide a good mechanism for ensuring compliance with the law. Explicit congressional recognition of the need for and validity of citizen suits, reimbursement for reasonable litigation costs, and clear conferral of citizen standing are all needed to ensure full implementation of the CZM Act. Citizen suits are an important complement to other enforcement tools of government.

In conclusion, the League of Women Voters supports reauthorization of the Coastal Zone Management program. We support the clarified policy objectives proposed by the Administration but do not believe funding for the program should be phased out. Other improvements to the program are needed if it is to fulfill its promise.

Senator STEVENS. Thank you very much. We appreciate your patience. As I said, the record will stay open for at least 2 weeks. We'd urge those who have questions submitted to them to respond as promptly as possible.

This hearing will be recessed, subject to call of the Chair.

[Whereupon, at 3:20 p.m., the hearing was recessed, to reconvene subject to the call of the Chair.]

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ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

Statement of Hon. Paul E. Tsongas, U.S. Senator from Massachusetts

Mr. Chairman, I am pleased to submit this statement for the record.

The Commonwealth of Massachusetts has approximately 192 miles of coastline. The economic, social and environmental value of our coastal areas can not be underestimated. It is very important that the Coastal Zone Management Act be reauthorized and amended to make the Act an effective statement of our concern for our coastal resources.

The Coastal Zone Management Act has helped my state during the Act's initial term by providing the incentives and financial assistance for an effective program to manage our coastal resources.

I have several comments to make in regard to the administration bill that you are discussing. The administration bill provides for funding for 80 percent of the state's costs for a period of five years starting at the date of program approval or fiscal year 1978 whichever date is later. Massachusetts had their plan approved during fiscal year 1978. This would therefore mean that funding eligibility for Massachusetts would end in fiscal year 1983. We have already used two years of our funding eligibility without our knowing it. I would propose that if a time limit is to be placed on funding it should commence with the reauthorization date of this act or the date of a state's program approval, whichever is later. Anything else would penalize those states which have made a concerted effort to develop a strong coastal management program. By telling a state that they only have three years, or less, of funding remaining could remove any incentive to remain in the program. In a related provision, the Administration proposes to reduce the funding levels so that the funding would not exceed 33⅓ percent at the end of the third year following the initial five year period. This funding reduction could drive even more states out of the program.

The Coastal Zone Management Act could be a very important tool to the revitalization of our urban ports and waterfronts. This Bill, in its Declaration of Policy, makes note of the increased use of CZMA funds for "assisting in the redevelopment of deteriorating urban waterfronts and ports, and sensitive preservation and restoration of historic, cultural and aesthetic coastal features". This funding provision will become more and more important as our energy situation encourages people to rediscover the city as a place to live and work.

Another portion of the Act which will be of prime importance during the 1980's is the Coastal Energy Impact Program. With the increased emphasis being placed on the exploitation of off-shore drilling the CEIP is a necessary program to avoid the creation of energy "boom-towns" which could be created along the coast. Our coastal ecosystems are too fragile to withstand the "here today, gone tomorrow" syndrome of energy dependent towns. Even though the CEIP has already been authorized through the mid 1980's it is an integral part of the Act. Any attempt to deauthorize the Act would weaken the provisions of the CEIP.

The Administration has been resisting efforts to adequately control the impacts of off-shore oil and gas exploitation. The reauthorization of this Act, at full 80 percent funding levels, would at least permit the states affected by this activity to protect and intelligently develop their own coastal resources. This is the least we can do to help the states with their potential problems from oil and gas development.

In closing I would like to say that the survival of our coastal resources depends on the reauthorization of the Coastal Zone Management Act. The states need the financial incentive to protect these resources, which even though are geographically located within the state, are a national treasure that must be protected by any means necessary.

Statement of Edward Lewis, Executive Director, Coastal Zone Management Advisory Committee

Mr. Chairman and members of the committee, I am Edward Lewis, Executive Director of the Coastal Zone Management Advisory Committee. I appreciate the opportunity to be here today to give testimony on behalf of the Coastal Zone

Management Advisory Committee regarding amendments to the Coastal Zone Management Act of 1972 as amended in 1976.

The Coastal Zone Management Advisory Committee, composed of 11 persons representing a broad spectrum of interests and groups vitally concerned about Coastal Zone policy and management, has been discussing possible amendments to the Act for the past six months and has reached some general recommendations regarding several issues and sections of the Act.

Because our committee was selected specifically to represent many points of view, and because our members live in different coastal States with widely-differing coastal problems and issues, all of us do not agree with all of the recommendations listed below. But the statement below does represent the strong concensus of the committee members.

MAJOR ISSUES

Declaration of policy

The advisory committee endorses the eight goals set forth by the administration in section 303(b): "To encourage and assist the States to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to the need for (i) protection of significant natural systems such as wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, fish and wildlife, (ii) management of coastal development to minimize loss of life and property caused by improper development in flood-prone, storm surge and erosion-prone areas, and areas of subsidence and saltwater intrusion, (iii) priority consideration for coastal-dependent uses and orderly processes for siting major facilities related to national defense, energy, fisheries development, recreation, ports, and transportation, (iv) public access to the coast for recreation purposes, (v) assisting in the redevelopment of deteriorating urban waterfronts and ports, and sensitive preservation and restoration of historic, cultural and aesthetic coastal features, (vi) coordinated and simplified procedures to ensure expedited governmental decision-making for the management of coastal resources, (vii) continuing consultation and coordination with adequate consideration of the views of affected federal agencies, and (viii) timely and effective opportunities for public participation in coastal management decision-making."

The advisory committee believes that these goals can be used as a yardstick in the development of criteria and objectives for all state management programs. Furthermore, while the advisory committee wishes to emphasize the equal importance of all eight areas, it also wishes to stress, with regard to subsection (v), the desirability for states, when appropriate, to develop and enhance existing urban waterfront facilities and resources to provide visual and other public access to port activities, within acceptable parameters of safety, space availability, and cost; and to improve waterfront recreation. Such economic, community and recreational redevelopment in urban waterfront areas would conserve money, land and energy by encouraging resettlement and community revitalization in more densely-populated areas of the central cities.

Review of performance

The Coastal Zone Management Advisory Committee endorses tying section 312 evaluations to the eight goals set forth in the new section 303(b), discussed above. The eight policy goals in 303(b) should be recognized in what the various state programs attempt to accomplish and they should be subject to evaluation of adherence with the policies and goals of the states' approval programs. These eight goals should be used as a basic yardstick; as evaluation guidelines are developed, however, the office of coastal zone management should remain flexible in developing with each state not only a timetable for meeting the various goals set forth in section 303(b), but alternating ways of achieving them. The federal program must not become a rigid form into which every state program is forced. The process of meeting goals should be spread over a two or three year period for states to establish priorities to determine which of the 8 goals are the most important in their particular situations.

A problem remains concerning those state programs which might not pass the 312 evaluation review as well as for those states who do a particularly outsanding job of meeting 303(b) and 306 goals.

The advisory committee recommends that the disincentives (withdrawal of funds and possible program cancellation) be retained as last resorts. However, positive incentives should be provided for states to meet the goals and to do so in an outstanding fashion. Possibly this could be accomplished by giving more money to those states that do an exemplary job of meeting their goals, or by placing such

states at the top of a list for discretionary funds or for funds derived from sections 309, 310 and 315, should they be funded.

Finally, the advisory committee recommends emphasis on the development of evaluation draft regulations or, at least, an evaluation guidance paper (absent regulations) for evaluation critria. In this regard, the advisory committee wishes to make brief reference to the suggestions contained in its "final task force report on evaluation", which is appended to this document. This report contains a number of suggestions regarding the evaluation work of the office of coastal zone management.

Estuarine sanctuaries, public access, and barrier islands

Presently, seven estuarine sanctuaries have received funding and are established. Three additional areas are expected to be approved within the present fiscal year, producing a total of ten funded estuarine sanctuary areas by September, 1980. These areas contain a wide variety of geographic and ecological features that are representative of estuarine areas within the United States.

The advisory committee believes strongly that the concept of estuarine sanctuaries is solid, that there are special estuarine "places" (the term "sanctuaries" may be misleading) deserving of special management, research, and education efforts. Not only should these unique areas be preserved and enhanced, also they should be used as study and educational laboratories for information about such critical areas and to educate the public better concerning these areas. Thus, the advisory committee strongly recommends the reauthorization and funding of the estuarine sanctuaries program (section 315(1).)

The advisory committee also strongly recommends the reauthorization and funding of section 315(2) which deals with public access and island preservation. The Committee believes that provisions should be made for access to and along public beaches and for access to other areas of environmental, recreational, historical, and esthetic value. In terms of funds available and the escalating cost of shorefront and island lands, the time for rapid action definitely is upon us if the Nation intends to provide adequate public access to its coastal resources and to preserve what is left of its undeveloped barrier islands.

The Coastal Zone Management Advisory Committee

Section 314 provides for the establishment of a national coastal zone management advisory committee to "advise, consult with, and make recommendations to the secretary on matters of policy concerning the coastal zone." The language goes on to state that ". . . the committee membership as a group (shall possess) a broad range of experience and knowledge relating to problems involving management, use, conservation, protection, and development of coastal zone resources."

The committee presently consists of 11 persons who represent a broad and diverse cross section of persons and groups concerned with the coastal zone. It is a well-balanced committee, as intended by the act.

The advisory committee has given and does give advice, as is called for in the act. In addition, there are at least five other reasons for the existence of such a committee: (1) the act itself calls for public participation in the development of coastal zone management programs, (section 303(d)); (2) the advisory committee provides direct citizen advice into coastal zone management at the national level; conversely when the advisory committee holds occasional meetings in the field, it indicates to local areas that an important governmental committee is concerned about regional, State, and local coastal issues; (3) the advisory committee provides a source of contact for persons and groups who may feel uncomfortable or ineffective in talking with members of the office of coastal zone management staff, for a variety of reasons; (4) advisory committee meetings provide a valuable public forum at which issues are raised and discussed among a wide range of participants: issues that might go unheard and undiscussed otherwise; and (5) the advisory committee provides an opportunity for an outside group to review the office of coastal zone management and its policies and activities and to provide immediate advice.

For these reasons the advisory committee believes that it provides important services for the office of coastal zone management and the secretary of commerce.

In the last thirteen months unusual and unexpected committee member turnover has occurred; none of its present members have served on the committee longer than fourteen months. Consequently, the advisory committee has been moving to set priorities and organize itself during the past year, and this work is going well. However, other problems also exist, (1) staffing is inconsistent, the executive director being a one-year, I.P.A. assignee; thus continuity of staff work is difficult to maintain; (2) the advisory committee operates on an insufficient funding base, competing for scarce resources with the many other demands upon the assistant administrator's budget; and (3) the committee is able to meet only 3 or 4 times a

year, hardly enough contact time to maintain continuity of thought and action on the part of its members.

The advisory committee recommends that these deficiencies be corrected at least by: (1) appointing a full-time, executive director with some background in coastal zone management (such person should be housed within the office of coastal zone management but should not be considered a staff member of that office) and (2) providing a budget sufficient to finance six committee meetings a year: four in Washington, D.C., and two elsewhere. Without at least these two changes, the committee may well be hard-pressed to maintain its momentum and direction in fulfilling its mission to the office, the secretary, and the public.

Section 306

The advisory committee notes that five years of section 305 funding has produced nineteen approved State plans which cover approximately two-thirds of the Nation's coastal area. While at least one State received 306 funding as early as 1976, the bulk of the State coastal management programs have been approved within the last two years. Thus, the true management programs have been approved within the last two years. Thus, the true management phase of the coastal zone management program is barely underway in most States.

In order for this management stage to reach its full potential, and in order to provide adequate Federal funding to accomplish goals which are in the national interest, the advisory committee recommends that section 306 funding be maintained at its present 80% level for the next 5 years, beginning with fiscal year 1981. At the end of this period, the entire program management phase should be examined carefully to determine accomplishments and future needs before making further funding decisions. Also, the advisory committee is concerned that valuable coastal resources may not be protected and enhanced in the long-term if the States without approved 306 programs do not develop viable coastal management plans and programs.

The advisory committee is not willing to suggest "third phases" or "limited mandatory participation" until it has some better indication of which States definitely will not participate in the 306 program, and what actions they may take in lieu of such action. However, the advisory committee does believe that this issue should be given a thorough oversight and re-examination within 2 years.

Section 307

Considerable controversy has surrounded the issue of Federal consistency. The advisory committee believes that the basic concept is valid and still maturing. Federal consistency constitutes, among other things, a hope that the States will have a partnership between them and the Federal Government. It is designed to allow for a strong measure of interaction between Fed's and States in the State CZM planning process and it offers the hope of consistency in future actions (eg: permitting) on the part of Federal agencies.

Section 308

The advisory committee strongly recommends that the receipt of 308 funds be tied to acceptable progress toward an approved 306 program. And, contrary to the suggestion set forth by the national advisory committee on oceans and atmosphere, 308 money should not be used to fund research activities more properly placed under section 310.

Section 309

The advisory committee believes that coordinated, regionally-based resource management schemes should be considered as the number of state program approvals increases. Where appropriate, existing instrumentalities (such as the New England River Basin Commission) should be used. Critical regional problems will not be resolved without encouragement and monetary incentives: Thus, the advisory committee recommends the reauthorization and funding of section 309.

Section 310

There has been a definite need for research and technical assistance activities in the states for a number of years. However, due to the fact that 310 funding was never appropriated, the only method available for states to undertake such activities was through the reprogramming of increasingly scarce 306 funds. As states and the entire coastal zone management program begin to move into a true management phase, demands from the states for research and technical assistance funds will increase as the need for information and assistance increases significantly.

Consequently, the advisory committee supports the reauthorization and funding of section 310.

Section 318(a)(8)

As more state programs are approved, more supervision, management and evaluation efforts are needed to keep abreast of developing situations, particularly at the state and local levels. All of these activities require staff, travel and financial resources, and the advisory committee considers this an area of considerable importance.

Consequently, the advisory committee recommends (1) that funding for administrative expenses incident to the Administration of the office of coastal zone management be increased substantially to allow for increased activities, and (2) that more time and effort be placed upon external relations between the office of coastal zone management and (a) states (b) local programs and (c) other federal agencies, to meet the coordination and management problems which are already arising with increased office and state program activity

Special area management plans (SAMP's)

The advisory committee is aware that one of the concerns with state CZM programs is that they have lacked detail or "specificity." One suggested method for reaching an acceptable level of specificity in particular instances is through the concept of special area management plans (SAMP's). While the experience with SAMP's has been limited, the concept appears promising in that it can address a number of management concerns contained in the CZMA and serve as a device for areawide coordination and conflict resolution. In short, SAMP's appear to be good CZM business.

While the concept and early use of SAMP's show some promising signs, a few difficult issues require further study; in particular, the extent to which federal regulatory agencies can rely on SAMP's in guiding decisions on permits.

The advisory committee endorses the general concept of SAMP's and believes that the topic should be addressed in the amendments process.

STATEMENT OF LIZ KAPLAN FOR THE COASTAL ALLIANCE

Mr. Chairman and Members of the Committee:

I am speaking to you today on behalf of the Coast Alliance. The Coast Alliance is a national organization whose Board includes representatives of the environmental, fishing, labor, urban, scientific and social action groups. The goals of the Coast Alliance are the following:

To bring to public awareness the immense value of the coast and its resources, and the need for rescuing the coast from further degradation;

To encourage groups and individuals across the country to work for the protection of coastal resources and to promote beneficial uses of the coast;

To encourage local, state and federal governments to strengthen policies and programs and to protect coastal ecosystems;

To protect human life and the public purse by discouraging private development and public investment in coastal flood and erosion risk areas;

To encourage the siting of development in urban areas and the revitalization of urban waterfronts; and

To encourage public accessibility to coastal resources where uses are compatible with maintaining the health of those resources.

The Coastal Zone Management Act (CZMA) is one of the nation's most important laws affecting the coast and the use of its resources. We consider this program to have had a significant positive impact on both attitudes and actions affecting the coast since its enactment. We also view this program as one still in transition, one that has had failures as well as successes. In short, the CZMA program needs adjustment if we are to guarantee that the health of coastal ecosystems and critical areas is to be maintained for future generations of Americans.

URGENT PROBLEMS NEED ADDRESSING

Mr. Chairman, a critical fact is that by 1990, 75 percent of the nation's population will live within 50 miles of the coast. This enormous human pressure on the coast will have irreversible impact on the immensely valuable resources of the coast. In recent years, we have learned of the tremendous value of these resources as a natural treatment system for waterborne and airborne pollutants, as a high-yield food source, as a natural buffer to storms and floods, and as important nesting and wintering areas for migratory birds and habitat for other wildlife. There is an urgent need for sensitivity to the value of these resources in all programs that support coastal development. To date, despite the CZMA, such sensitivity is lacking. Federal infrastructure and permitting programs do not take into account the sec-

ondary and incremental impacts of their activities. State CZMA approved plans and implementation of those plans vary enormously in the degree of protection they provide to coastal areas of particular value. There remain very poor coordination and conflicting mandates among federal, state and local laws affecting the coast. With only 20 states and territories actually in the program of the 35 eligible, the question remains: who will protect the national interest in the coastal resources of the states that do not come into the program? Those resources presently encompass approximately 40 percent of the nation's coast.

The need for improving the management of our coastal resources is urgent. Statistics available on resource losses, both over the long term and since the CZMA was first passed, are alarming.

Coastal wetlands and estuaries play a vital role in the life cycle of our fish and shellfish. Two-thirds or more of the fish species that make up more than 90 percent of the total U.S. seafood catch depend on estuaries in whole or in part for their survival. The closure of the Hudson River estuary, for example, costs an estimated $25 million in lost sport fishing revenue yearly.

Shrimp are our most valuable commercial seafood species. In 1975, the landed value approached $226 million. Shrimp are coastal dependent species. In 1978, 16.5 square miles of wetlands were lost in Louisiana, a leading shrimp producing state.

The production of blue crabs, clams and shrimp—which rely on coastal wetlands—was down 7 to 8 percent in 1975 compared to 1974. We can expect this decline to continue unless a more concerted effort is made to reduce the loss of wetlands.

In New England, the commercial fishing industry is one of the most stable and productive industries in Maine, with a 1975 harvest valued at 48.5 million. Ninety-eight percent of this harvest consisted of species depending on estuaries for at least part of their life cycle.

An estimated 40 percent of the East Coast's wetlands have already been destroyed, and destruction continues at a rate of over 100,000 acres annually.

The Georges Bank, where the catch per unit is the highest in any ocean, nearly 11.6 metric tons per square kilometer, has recently been leased for oil and gas development by the Department of the Interior, despite the objections of NOAA, to the extreme risk to the fishery. The battle over George's Bank is perhaps the most vivid example of the lack of a coherent federal policy toward our renewable coastal resources.

Federal subsidies through grant or permit programs for development on the coast is estimated to be at least $1 billion annually.

A few weeks ago, Governor Dalton of Virginia vetoed a wetlands law just passed by the Virginia legislators. He himself had sponsored the legislation, but pressure from developers was sufficient for him to repudiate his own legislation. Virginia is not in the CZMA program, and there is a good chance it will not join. Who will protect the national interest in the immense value of the Virginia shoreline whose estuarties and salt marshes are the nurseries for blue crab, rockfish and other species of prized fish?

In 1974 over 13 million tons of municipal and industrial wastes were dumped into the coastal water of the U.S. Ninety percent of that went into the New York Bight. Still CEQ estimates ocean dumping represents as little as 10 percent of the total human-related wastes entering the nation's coastal waters. New York is right now trying to gain an exemption for the 1981 deadlines to end its dumping of sewage sludge, a deadline most cities have made good progress toward meeting.

Over 50 percent of the Atlantic's shellfishing beds have been closed at some time due to pollution.

Despite the requirements of the 404 permitting process, wetlands continue to disappear at an alarming rate. In Louisiana, whose vast welands are a national treasure, a million acres of wetlands have been lost to Army Corps of Engineers projects.

The list of above facts are a tiny sampling of the record of loss of our productive coastal resources. We have experienced 20 years of unprecedented growth in the coastal areas of this county. This growth has been fostered partly by an unnatural lull in the frequencies of hurricanes on the eastern seaboard and by the availability of inexpensive federal flood insurance in high hazard areas where private insurers are reluctant to operate because of the extreme risk of storm damage. Eighty percent of our coastal residents have not experienced a severe hurrican and we have been falsely reassured by erosion control and storm-protection structures.

The lack of a coherent national policy on hazard mitigation extends to erosion control efforts on the coast. Examples are numerous—$65 million spent to restore nine miles to Miami Beach, $18 million to shore up a 15 mile stretch of Long Island. Plans are underway to rebuild the bridge to Dauphin Island, Alabama at a federal

cost of $30 to $40 million in the wake of hurricane Frederic's destruction last summer. This little project will subsidize the former residents at $20,000 each just to regain bridge access to the island. This does not include federal grants for disaster relief, sewers and sewage treatment plants, and flood insurance payments. Hurricane Frederick is estimated to have caused over $2 billion in damage, and there is little evidence that any coherent attempt is being made to rebuild outside the flood plain.

CZMA FAILS TO PROVIDE NEEDED PROTECTION

The Coastal Zone Management program was intended to bring some much needed planning to coastal development. It intended that states survey their coastline for "areas of particular concern" and declare appropriate uses in those areas. Unfortunately, states have failed to utilize their full powers to effectively protect coastal resources and direct necessary coastal development to appropriate areas. Instead, states in large measure have relied on existing laws and institutions to carry out coastal zone management. As a result, the program has turned into a paper planning process in which states go through elaborate paperwork to qualify for federal funds, with minimal changes in the way human activities affecting the coast are conducted.

EXAMPLES OF STATE PROBLEMS

In North Carolina, the state lacks the authority to protect coastal wetlands and estuaries shoreline areas from harmful agricultural and silvacultural activities. This is true even though these areas are designated by the state as areas of environmental concern and even though agriculture and silvaculture are prevalent land uses in the state's coastal areas.

In Maryland, the aquatic resources of the Chesapeake Bay are threatened by virtue of the state's lack of control over adverse impacts from residential and industrial development. In New Jersey, the state's coastal zone management program provides no control over residential development under 25 units in size or commercial development on dunes or barrier islands.

Massachusetts has failed to protect areas in the state identified as areas of critical environmental concern and Rhode Island's Coastal Resource Management Council ultimately lacks control over the siting of refineries and power plants in coastal areas.

South Carolina's definition of critical coastal areas is too narrow to provide the protection for wetlands, dunes and barrier islands that are of great importance but may lie outside the narrowly defined areas named. These are just a few examples of key ommissions in state coastal programs which undermine the ability of these programs to provide needed protection for important coastal resources. More detailed comments on weaknesses of state programs are attached.

REASONS FOR FAILURE OF CZMA TO ADEQUATELY PROTECT COASTAL RESOURCES

The failures of the CZM program are attributable to several factors. These include the statute itself, weak federal implmentation of the Act, the uncertainty of the benefits accruing to states with approved programs, strong political resistance within states to protection of important coastal resources, and lack of a strong constituency for coastal zone management in many states.

A. The statute

A major source of the problem is the statute itself. The statement of findings and declaration of policy in Sections 302 and 303 are extremely broad. There is an absence of clear, substantive standards against which state programs are to be judged. The level of funding is small relative to the magnitude of problems the states must address. State participation is voluntary, and there is uncertainty as to how long the program will exist. The result is a total absence of programs in a number of states and very weak programs in many others. Georgia, Virginia, Illinois and Minnesota are presently not participating at all. It is questionable whether such states as New Hampshire, New York, Florida and Ohio will agree to join.

B. Weak Federal implementation

The final CZM program regulations have numerous deficiencies. Most serious is that they fail to ensure that one of the most important goals of the CZM—greater protection of valuable coastal resources—is furthered. They place heavy emphasis on procedure rather than on substance.

They fail to explain or give any interpretation of the general goals and purposes of the statute. They fail to require that coastal areas which are highly productive

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and which are threatened by development be designated as areas of particular concern and subject to specific management controls. They fail to require that States have a mechanism to deal with cumulative impacts, which are a substantial problem.

Another serious problem has been failure to implement Section 312, the evaluation of the programs. No regulations have ever been issued under this important section of the Act. Nor have clear, objective standards been set for judging a State's performance. No provisions have been made for terminating or reducing funding to a State that fails to meet the terms of the approved program. In short, States have been given the signal that funding will continue despite possible flagrant disregard of the requirements of the statute. No where has OCZM defined what is a major justified or unjustified deviation from the program.

C. Uncertainty of program benefits

Uncertainty of benefits accruing to the States is indeed a problem for this program. Since the program is voluntary, incentives to the States must be substantial if the State is to respond adequately to the need for protecting significant coastal resources. However, the level of funding is small for implementation of Section 306 compared to the problems the States are asked to address. States with approved programs may receive only $1-2 million per year for program implementation. Other important Sections such as 309, 310, and 315 have failed to receive appropriations even though they are authorized to assist the States with serious problems such as beach access, island acquisition, and inter-State cooperative efforts. CEIP funds have only benefited a few States so far, and other States are uncertain about the availability of these funds. Great Lakes States are not eligible at present.

The failue of the CZMA to provide substantive measures for protecting coastal resources has made it difficult for the program to attract a strong environmental constitutency in the States. The voluntary nature of the program has encouraged powerful development interests to try to block State efforts to achieve the legislation necessary to enforce adequately a CZM program.

RECOMMENDATIONS FOR THE CZMA

The Coast Alliance has serious concerns about whether the program as presently constituted is doing enough for the coast to warrant the expenditure of $50 million a year. We feel that the following measures should be taken to clarify and strengthen the program if it is to have the needed impact to slow down the escalating destruction of our vital coastal resources. The legislative changes necessary to develop an adequate program include the following:

RECOMMENDATIONS

Severe problems face the nation's coast. These problems are not being effectively addressed by the Coastal Zone Management Program. If these problems are to be faced and resolved in the context of this program, legislative changes must be made in the CZMA.

The following changes which the Coast Alliance believes are necessary include the following:

1. A clearer and more specific statement of national coastal policy which clarifies the primary conservation thrust of the Act and specifies the national interest in the protection of valuable coastal resources such as wetlands, estuaries, barrier islands, and fisheries;

2. The establishment of substantive Federal standards for State coastal programs which require the following: (a) Effective protection for valuable coastal areas; (b) control of development to minimize loss of life and property in coastal floodplains and erosion-prone areas and to protect natural protective features such as beaches, dunes and wetlands; (c) direction of coastal-dependent development to appropriate areas and away from ecologically-vulnerable areas; (d) provision of carefully-planned public access to and along the coast consistent with the protection of coastal resources.

3. A termination of Federal funds under Section 306 and under any of the special assistance provisions of the act, including Section 308 (CEIP) funds, if a State fails to meet these standards;

4. Reduction or loss in other sources of Federal funds for projects proposed in valuable coastal areas (highways, sewers, erosion control structures) if a State fails to meet the minimum Federal standards;

5. A requirement that in the absence of an adequate State program the Federal Government will establish a coastal program for that State to which Federal aency actions must conform.

We consider these to be moderate improvements in the present program. We are not suggesting that a mandatory CZM program be authorized or that there be a complete overhaul of the present program. The present program provides a good framework, which needs to have more specific goals and requirements built into it for the program to be meaningful.

THE ADMINISTRATION'S BILL, H.R. 6956

The Administration's bill is extremely inadequate to address the serious problems of the present program. Only minimal changes have been proposed and the bill continues to have serious defects of vagueness. While the changes in Section 303, the Policy section, are good, there is adequate reference in 306 to these policy goals to give the states clear direction. Section 306 funds are linked to a state's making significant improvements in meeting coastal management objectives, but no specific percentage of funds to be devoted to this is given. The Administration's recommendation that there be a five-year reauthorization with a three year phase down to one-third or less is a signal to the states that the program is on the way out. What incentives are there to the one-third of the eligible states not in the program to get in when it will be phased out in a few years? Further, the Administration bill eliminates the beach access provision in Section 315 entirely, and it reduces authorization for island preservation in 315 to $10 million. Both of these authorizations are vital to solving key coastal problems.

THE STUDDS-MURPHY PROPOSAL, H.R. 6979

As introduced, H.R. 6979 was an excellent step in the right direction for the CZMA. While stopping short of forcing states to meet additional requirements, the bill as introduced would have gone far to give the states real incentives for protecting their important coastal areas, as well as providing a minimum of federal protection by making federal action consistent with a policy of protecting nationally significant resources in states that do not enter the program or that do not adequately protect their own resources. Failure of the Administration's bill to address the serious problem of federal development activities in the coastal zone is one of the most serious weaknesses. The most important aspects of the bill as introduced are attached on page thirteen.

We urge this committee to give consideration to the provisions of the Studds-Murphy bill as introudced as an excellent first step toward addressing the urgent needs of our coastal resources. We were very disappointed that the Subcommittee on Oceanography did not report out a bill inclusive of all the key provisions, but some important additions were made, and it is still a bill worth supporting. We feel it would be a grave disservice for this Congress to reauthorize a CZMA that fails to address protection of coastal resources in states without approved programs. Coordination of federal activities in the coast for all of our coast should be a top priority of this Congress. We urge this Committee to report a bill that will genuinely address the urgent problems of our coast.

SUMMARY OF STUDDS-MURPHY BILL

The Studds-Murphy bill addresses these problems in a sensible and fiscally responsible manner by doing the following:

1. Providing greater incentives to states to participate and remain in the federal program by establishing the coastal resource improvement grants section and by reauthorizing Section 306 at the present level for eight years;
2. Clarifying national objectives for the coast and requiring that states use an ever-increasing percentage of their federal funds to address these objectives;
3. Encouraging states to protect coastal resources of national significance and giving them the financial incentives to do so;
4. Ensuring that if states choose not to protect coastal resources of national significance, federal activities, at least, will not unnecessarily harm these resources;
5. Providing much-needed funds to states for the acquisition of significant natural areas, the rehabilitation of urban waterfronts, and providing public access to the coast;
6. Providing an effective mechanism for ensuring that the provisions of the Act are implemented through establishment of a citizen suit provision;
7. Clarifying the objectives and procedures to be used in evaluating state implementation of approved coastal zone management programs.
8. Providing a mechanism for putting the federal house in order and bringing federal programs into conformity with the policies of the Act.

PROBLEMS WITH STATE PROGRAMS

Despite the sweeping recognition in the CZMA of the pressing nature of coastal problems and the inadequacy of existing institutional and regulatory frameworks to address these problems, the CZMA has not led in most states to passage of major new state legislation not to major alterations in state and local institutional structures. States such as California, Rhode Island, New Jersey and North Carolina, which had already adopted or were in the process of adopting comprehensive legislation regulating major developments in coastal areas have relied principally on these statutes to satisfy the requirements of the federal Act. However, most states did not have such comprehensive coastal legislation and they have failed to develop such controls in response to the federal Act. These states instead are attempting to rely on existing state laws and programs which are limited in scope and are not, for the most part, specifically directed to solving coastal problems. States have "networked" these programs into a system of authorities which they claim is sufficiently comprehensive to effectively control coastal development.[1] However, reliance on such systems is largely inadequate to meet the Act's primary goal of increased protection for coastal areas.

Several states have done no more than draw a statement of coastal policies from existing statutes and then, through an executive order or some other mechanism, made these policies binding upon state agencies, "to the extent consistent with the existing authority" of these agencies. The result is that state agencies are thereby bound to do precisely what they were already required to do under existing law before adoption of the state program. Nothing has changed. Clearly such a result is contrary to what was envisioned under the CZMA.

"Networked" programs are also extremely difficult to enforce. Typically, each state agency is left to interpret and implement the coastal program and policies in the context of its own program. The coastal zone management agency does not usually possess the authority to review other state agencies' actions for consistency with the coastal program and to require their conformance to the program.

In Maryland, for example, which has a "Networked" state program, there are several state agencies responsible for implementing the coastal program. The Coastal Resources Division itself has no regulatory power. It monitors other agencies' programs through arrangements spelled out in memoranda of understanding. There is no evidence, however, that the other agencies have done anything different as a result of this program than they previously did. In fact, they appear not to have integrated the coastal policies into their ongoing programs in any way at all. For example, when a major sewage treatment project which violated several important coastal policies and threatened Assateague Island came before one of these state agencies for review, the agency, in acting on the proposal, never even addressed or considered the coastal program or policies.

Another problem seen in states with networked programs is reliance on enforcement mechanisms such as executive orders and memoranda of understanding which are supposed to bind state agencies to carry out the coastal program, but which in fact are of dubious enforceability. The following are examples of states which rely on such mechanisms: Maine, Massachusetts, Delaware, Maryland, North Carolina. These orders or memoranda form an essential part of the state's program: They direct state agencies to adhere to the program and policies. However, in most cases, there is no basis for believing that these mechanisms are legally binding or enforceable. In a number of states, NRDC has requested that prior to approval the state be required to demonstrate the enforceability of such memoranda and orders. These requests went unmet in a number of instances.

3. VAGUE, OFTEN WEAK POLICIES GOVERNING COASTAL DEVELOPMENT AND RESOURCE PROTECTION

Coastal zone management policies must be comprehensive, specific and enforceable. They must provide for the protection of coastal resources consistent with the primary conservation thrust of the CZMA. They must govern the management of uses which have a direct and significant impact on coastal waters, direct development and guide the resolution of conflicts among competing uses.

In several states coastal policies contained in coastal zone management programs fall short of meeting these standards. They are vague, fraught with loopholes, are of an "encouragement" nature and are potentially conflicting. As a result, they fail to provide predictability for decision-making or reliable protection for coastal resources. For example, Maryland's program consists of five goals, thirty-nine objec-

[1] Some of the states relying primarily on a networking approach are the following: Maine, Massachusetts, New York, Maryland, Florida.

tives, and two hundred policy statements. The policy statements are non-specific, consist substantially of quotes from existing laws, and fail to set priorities among policies. Many of the key policy statements are not "hard" or "enforceable," but of an encouragement nature. In Delaware, the state's program fails to set forth objective standards for what uses will or will not be permitted in wetland areas (or under what conditions) or in the area covered by the state s Coastal Zone Act. In South Carolina, the coastal policies are so full of qualifiers and loopholes that it is impossible to predict how decisions will be made or whether resources will be effectively protected. The same criticism holds for the Washington and Florida programs.

It is important to note that some states have adopted specific, clear policies governing uses in particular types of coastal areas. These states include Maine, Massachusetts, and North Carolina, which have issued regulations for areas such as wetlands and coastal hazard areas which provide detailed guidance on what uses are allowed or prohibited and under what conditions.

4. LACK OF CONTROL OVER CUMULATIVE IMPACTS

Few coastal programs provide for the assessment and control of the cumulative impacts of coastal development.[2] Yet, there needs to be an advance planning element in any impact assessment to ensure that the addition of the effects of the present project to those of the past and future ones does not, by accumulation, result in an unacceptable impact.[3] Despite this need, OCZM has taken the position that cumulative impacts of projects on important coastal resources do not have to be controlled.[4]

5. THE LACK OF CONTROL OVER USES AND THE FAILURE TO DIRECT USES TO COMPATIBLE AREAS

Several states rely primarily on the regulation of impacts of coastal uses, rather than on the regulation of the uses themsleves. Yet the CZMA emphasized the need for control of coastal *uses* having a direct and significant impact on coastal waters. Section 306(d)(1) of the CZMA requires that states have the authority "to administer land and water *use* regulation" and "to resolve conflicts among competing uses." (emphasis supplied). The Senate Report (Sen. Rpt 92-735) states: "It is the intent of the Committee to recognize the need for expanding state participation in the control of land and water use decisions in the coastal zone." (pp. 5-6). This legislative intent is reflected in the three techniques of control specified in Section 306(e). Connected with the use regulations requirement is the requirement that a state have the authority to resolve conflicts among competing uses.

The problem with the impact regulation approach is that under this approach, any use is permissible in any area so long as the impact levels are determined acceptable. Uses are neither prohibited nor specifically allowed under this approach. Priority of uses in the coast is not established. Concomitantly, there is little direct planning that accompanies the impact regulation approach. That is, there is no attempt to direct certain types of development to certain areas and away from ecologically-vulnerable areas. Yet this is precisely what is needed in order to provide developers or those interested in protecting fragile coastal resources with greater certainty.

6. FAILURE TO UTILIZE EXISTING LAWS AND AUTHORITIES TO THEIR FULL EXTENT

Several states have failed to utilize their authority over public investment in infrastructure (such as sewage facilities and highways) as a means of controlling

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[2] California and Delaware are examples of states which do provide such controls.

[3] John Clark, "Coastal Ecosystem Management" (Washington, D.C.: Conservation Foundation, 1977) p. 78.

[4] See the following:

1. FEIS on Rhode Island Coastal Zone Management Program (March, 1978) p. 470: In response to NRDC comment (submitted by Richard Brooks) that cumulative impacts should be explicitly addressed in the criteria established in the program for permit evaluation, OCZM stated that this was not a requirement of the CZMA.

2. FEIS on Massachusetts Coastal Zone Management Program (March, 1978) p. 291: In response to NRDC comment that program fails to control cumulative impacts, OCZM responded that control of all cumulative impacts is not a requirement for approval. (OCZM did not specify what, if any types of cumulative impacts must be controlled.)

3. The New Jersey Coastal Zone Management Program Bay and Ocean Segment which OCZM has approved makes clear that cumulative impacts of small-scale development are not controllable under the program even where significant adverse impacts on important coastal resources could result.

coastal development. This is a clear authority possessed by the states and one that, if properly used, would provide an important means of directing development to certain areas and away from others.

In addition to this general failure, there is a failure in several states to fully utilize the authorities they possess under specific state laws. For example, North Carolina has failed to designate barrier islands as an area of environmental concern under the Coastal Area Management Act, despite its authority to do so. Delaware has failed to develop a comprehensive plan or guidelines under its Coastal Zone Act concerning manufacturing uses in the coastal zone. Maryland has failed to designate any critical coastal areas under its Critical Areas Program. Where a state has the authority to protect coastal resources and control coastal development, it should use this authority to the fullest extent possible. This is not happening.

7. THE RENDERING OF KEY SECTIONS OF THE CZMA MEANINGLESS

The deficiencies in state programs extend to the way states are handling some of the specific requirements of Sections 305 and 306 of the CZMA. For example, the requirement for designation of "permissible uses," Section 305(b)(2), is being met in many states by simply defining as permissible those uses for which permits may be obtained under existing programs. The requirement for designation and management of geographic areas of particular concern (Section 305(b)(3)) has often led to the designation of only a few areas over which the state already possesses control, e.g., coastal wetlands or state-owned parks.[6] Rather than serving as a means by which states systematically identify and protect important areas, this requirement is being interpreted to require merely designation of those areas already protected. Special area management has faltered in many states as a result.

8. LOW PRIORITY AND SUPPORT AFFORDED STATE COASTAL ZONE MANAGEMENT PROGRAMS

A significant problem with many coastal programs is the low priority and support given to these programs within the state. In several states, the coastal zone unit is buried beneath layers of bureaucracy and little real power.[6] In other states, the coastal agency may have more independence but still appears to be a weak agency which does not play a major role in controversies affecting the state's coastal zone.[7]

STATEMENT OF STATE OF NORTH CAROLINA

The State of North Carolina has carefully reviewed the proposals to reauthorize and amend the Federal Coastal Zone Management Act of 1972 (H.R. 6956, H.R. 6979 and S. 2622). We strongly support reauthorization of this important legislation and believe H.R. 6979, if amended as set out below, will best enable us to continue to build upon the effective Federal-State-local partnership for coastal management that has been established in North Carolina.

NORTH CAROLINA'S MANAGEMENT PROGRAM

North Carolina is very proud of its coastal management program. Sound coastal management has been a high level concern of State Government in North Carolina for some time. Beginning with the passage of the State's dredge and fill law in 1969 and extending through the passage of the Coastal Area Management Act (CAMA) in 1974, our Legislature and Executive branch have expressed strong concern that coastal resources be properly protected and managed. The State's coastal management program received Federal approval in 1978, becoming the first southern State to be eligible for program implementation grants. We are proud that North Carolina has a reputation of having an exemplary coastal management program.

We have made major accomplishments and improvements in coastal management in North Carolina in the past decade. The financial support received under the Federal Coastal Zone Management Act of 1972 (FCZMA) contributed significantly to our ability to fully address and resolve many of these issues. While the testimony and documents submitted by the Federal Office of Coastal Zone Management de-

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[6] See, e.g., the Maryland program and New Jersey programs.

[6] This is a problem, for example, with the New York and Maryland programs.

[7] For example, the Rhode Island Coastal Resources Management Council has not been involved in several important coastal controversies such as those concerning the Charleston Nuclear Plant or the Providence Sewage Treatment Plant. In North Carolina, the state coastal agency has not had a major role in an important controversy over the development of Currituck Island.

scribe many of the States' program accomplishments, several of North Carolina's major succeses should be highlighted.

The North Carolina Coastal Area Management Act (CAMA) mandates local Governments in the coastal area to undertake local land use planning consistent with State guidelines. Most communities had never prepared or adopted land use plans prior to the passage of CAMA. Starting in 1975, using funds largely provided through the FCZMA, 55 of our local Governments prepared and adopted land use plans that were subsequently approved by the North Carolina Coastal Resources Commission as meeting State standards. In subsequent years, these plans have been used by the local Governments, by State and Federal agencies, and by private individuals as a guide to development in these areas. Our recent evaluation indicated that these plans are working well; nonetheless, it also revealed that the State guidelines (and plans) could be improved. As a result, in 1979 State guidelines were amended to require a second generation of improved local plans. Local Governments, again with financial support largely provided through the FCZMA, are currently revising their land use plans for compliance with the new guidelines. The local plans are being revised with the involvement of Federal ans State agencies, interest groups, and the general public. As a clear local policy statement concerning resource protection and community development, these revised plans will play a major role in assuring wise and thoughtful future development in these areas. The plans are now used as a guide for State and Federal permit decisions, investment decisions, and other actions. Their usefulness in this respect will continue to grow.

Under the provisions of the CAMA, a comprehensive coastal permitting program has been developed and implemented. The Coastal Resources Commission identified specific geographical areas needing special management attention, developed permit standards for development in those special areas, and has now fully implemented this system through State administrative rules. In 1979, these permit standards were compehensively revised to reflect the experience gained in the first several years of permit administration. As with the planning program mentioned above, this is a dynamic area as we are constantly seeking to refine and improve our permit standards. We have, with financial assistance through FCZMA, established a strong permit administration program. We have been able to train 52 local permit officers, place six State staff members in the coastal area to assist local permit officers and applicants, and establish a central staff in Raleigh to thoroughly, efficiently, and expeditiously review applications for development in these areas. We have also made major progress in streamlining and simplifying this permit system, coordinating it with other similar State and Federal regulatory programs. The N.C. General Assembly in its last session made several changes in the laws to further streamline and coordinate this system. The State dredge and fill program was combined with the coastal area management program and duplicative dune protection requirements for localities were repealed. We have established a strong and effective regulatory program while making major progress in permit coordination and simplification.

Pursuant to CAMA, major State policies now address a wide range of emerging coastal issues. The Coastal Resources Commission has adopted formal policy statements concerning shoreline erosion, public access to shoreline areas, and coastal energy facility development. These policy initiatives are now reflected in State permit standards as well as local land use guidelines. The development of State policies on other issues, including development in hazard areas and the use and protection of the Currituck Outer Banks, is currently underway.

Major progress can be identified in a number of other areas. We have established a strong public information and public participation program at both the local and State level. The involvement of citizens and interest groups continues to be a major factor in the success of North Carolina's program. Our research efforts have led to significant management improvements—particularly in the area of fisheries management. We have instituted a strong program of intrastate, interstate, and State-Federal coordination through the operation of our State and Federal consistency programs. Each of these has resulted from the combined efforts of State, local and Federl agencies. The financial support provided through the FCZMA has been a critical factor in allowing us to carry out these initiatives.

GENERAL CONCERNS ON REAUTHORIZATION

The accomplishments noted above are the direct result of North Carolina having a strong, effective State coastal management program. It is in the national interest that this type of effective comprehensive resource management program continue to be carried out.

The experience to date verifies that Congress chose wisely in 1972 when it placed this responsibility at the State level. As noted in the FCZMA's Findings, Section

302(h), and the declaration of Policy, Section 303(b), the key to a national program of effective coastal management is to establish, encourage, and assist State management programs. The responsible actions taken by North Carolina and other States in the 1970's bear out the efficacy and wisdom of this approach.

The State of North Carolina therefore strongly supports the reauthorization of the Federal Coastal Zone Management Act. Although an effective State coastal management program has been planned and established, it is imperative that we continue to build upon the work accomplished to date.

At least five additional years of full funding under Section 306 of the Act for the implementation of state coastal management programs is necessary. To phase down the level of federal funding, as is called for in S. 2622 and H.R. 6956, just as state programs are beginning to work and produce substantive improvements in coastal management would be a mistake. Such a move would undercut and possibly negate the years of hard work and dedication that have been expended in getting to this point. It is vitally important that full funding continue during these early years of program implementation so that a solid record of achievement can continue to be established and major progress can continue.

Also, we believe that major substantive changes in the FCZMA are not called for at this time. We are strongly opposed to the imposition of new requirements on the states—particularly the proposal to require the state programs to focus their efforts on narrowly defined "national level interests." Documenting efforts in this regard, especially if it requires formal amendment to the management program, takes substantial staff resources. Securing federal approval of North Carolina's management program, which was just received in 1978, involved a year-long environmental impact statement process that took most of the time of several of our key staff people. While the organization of our program is complete and full implementation has begun, our program is still at a critical juncture. To divert our attention from substantive implementation to meeting new federal requirements would seriously weaken our efforts. The program must now prove its worth. We have made large promises to our Legislators, to our localities, and to our citizens. We must fulfill those promises now. We simply cannot afford to divert key staff resources and our limited budget to documenting how we have addressed new federal requirements.

We believe that the management framework established by the FCZMA is sound. A solid state-local-federal partnership is the only way to effectively address the complex issues facing our coastal resources. The federal government can provide essential support to state management efforts—going beyond financial assistance to securing coordination of federal coastal policies and programs, providing research and technical assistance on improved management techniques, providing effective program evaluations that will lead to more efficient use of scarce resources, and improving the coordination of federal and state management efforts. Such assistance could greatly strengthen the management partnership we have established in North Carolina.

SPECIFIC CONCERNS ON H.R. 6979

Of the bills currently before Congress, we believe H.R. 6979 will best enable us to continue to build an effective coastal management program.

There are several aspects of this bill that are particularly noteworthy. The addition of Section 306A will add a new dimension to our ability to address urban waterfront, critical area preservation, and public access issues. A source of funds that can go beyond planning and management to acquisition of interests in land and limited construction will be most helpful. This is especially the case since Section 306A(d)(2) allows these funds to be used as state matching funds, thereby encouraging a coordinated approach that combines several programs to achieve maximum public benefit. We believe that the eight year reauthorization and clarification of the Section 312 evaluations will strengthen the Act. Also, the federal program review called for in Section 316(c)(1) is commendable. It is important that the federal government have explicit, specific, consistent coastal management policies that apply to all federal agencies. Any reduction in the current conflicts between federal program objectives and impacts will greatly assist the states in their management efforts.

There are several provisions in H.R. 6979 that give us some concern. We are particularly concerned that reporting/documentation requirements may be imposed on the states by the proposed Section 306(i) and that 30 percent of each state grant might be required for making "significant improvements" in national objectives. As noted earlier, North Carolina has completed the long and arduous task of designing a management program and putting it into place. That program, after a year long review process, received federal approval just 20 months ago. Our limited resources must now be devoted to the tasks of implementing and refining our program, tasks even more difficult than program design. To divert staff time and financial re-

sources from this effort to documenting compliance with new federal requirements could place the success of our entire program in jeopardy. Therefore, we ask that no new requirements be added unless there is clear and pressing justification. We are also concerned that the citizen suit provision not be allowed to short-circuit our state permit review and appeal process.

For these reasons, we believe that H.R. 6979, with modest revision, will best allow us to continue our progress in coastal area management.

STATEMENT OF EDWARD J. REILLY, ASSISTANT SECRETARY, EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS, COMMONWEALTH OF MASSACHUSETTS

The Commonwealth of Massachusetts strongly supports a multi-year reauthorization of the Federal Coastal Zone Management Act. Massachusetts received its first CZM planning grant in 1974, the same year that the Massachusetts Coastal Zone Management Office was established within the State Executive Office of Environment Affairs. After three years of inventorying and analyzing the natural, economic and cultural resources of the coastal zone and an extensive public participation process involving over 1,000 public meetings, the State developed a comprehensive coastal zone management plan. The Federal Government approved the plan in April 1978.

The Massachusetts program takes a balanced approach to coastal management providing for the protection of cultural and natural resources on one hand and on the other, directing development to areas of the coastal zone best suited to support its impacts.

Today, April 30, 1980, Massachusetts will be completing its second year of implementation and we feel that we have made measurable progress. However, successful implementation is an on-going process that only begins with plan approval. Continued Federal support of the Commonwealth's efforts is essential if we are to carry out an effective, practical management program that is sensitive to and incorporates local, State and national interests.

We have carefully reviewed the various proposals put forward for amending the CZMA and more specifically, the administration's proposed amendments as presented in H.R. 6956 and the amendments introduced by Congressman Studds in H.R. 6979.

In general, we find H.R. 6979 as reported out of the House Subcommittee on Oceanography on April 24, 1980 a constructive approach that would make necessary improvements in the Federal act while at the same time allowing the individual States to continue to develop and implement programs in a manner that is consistent with the characteristics and particular problems of each State's coastal zone and also which respects the local traditions of Government.

We offer for your consideration the following section-by-section discussion of the various proposed amendments to the Act.

Section 303. Declaration of policy

We support the declaration of policy as appears in H.R. 6979 with the addition of an eighth policy area under 303(2):

Assisting in the planning and redevelopment of urban waterfronts and ports.

Section 306. Administrative grants

Massachusetts strongly supports the reauthorization of Section 306 for eight years as proposed in H.R. 6979. The number of years required to develop and bring to full implementaiton a comprehensive coastal management program is far greater than envisioned in 1972 when the CZMA was originally enacted. An additional eight year time frame would permit the States to cement into place the infrastructure needed to insure the continued implementation of the policies of their respective Coastal Zone Management Plan.

One of the central issues that has been discussed in reference to reauthorization is the concept that the States should continually devote a greater percentage of their Federal grant money to areas which are in the national interest. OCZM has administratively required during the last two years that the 306 States utilize at least 20 percent of the Federal money to further implement certain nations interests.

The State CZM programs have consistently said that the respective State programs, as approved by the Federal Government are the statement of how each State will approach the issue of coastal management and meet the national goals as stated in Sections 302 and 303 of the Federal CZMA. The States now implementing their coastal programs are acting in the national interest; if this were not the case, program approval should not have been given by the Secretary of Commerce.

Massachusetts feels that if a certain percentage of its program is to be devoted to the coastal management objectives specified in section 303(2) (A) through (G), a 30 percent ceiling, as found in H.R. 6979, is more acceptable than the administration's bill which provides for no ceiling.

As long as Section 306(b)(1)(2) as proposed in H.R. 6979 remains voluntary for the States, Massachusetts can support it as a constructive addition to the national coastal zone management program.

Section 306(A). Resource management improvement grants

Massachusetts strongly supports the inclusion of this new section as it appears in H.R. 6979. Funds need to be made available to actually put on the ground the ideas and concepts being developed under 306. Massachusetts has been able to accomplish this to a certain degree by using the CEIP program to fund the construction of several important coastal activities planned with 306 funds awarded to local communities in the form of community assistance grants. 306(A) would make available under CZM the necessary funds to expand this effort and see important projects carried through to fruition.

Section 307. Coordination and cooperation

Federal consistency is a concept that has been used and can continue to be used by the States to assure that coastal planning decisions made at the local and State level come into the policy making decision of federal agencies. The Massachusetts program strongly supports Section 307 consistency review of Federal activities, federally licensed activities and OCS exploration and development.

We feel that federal consistency has provided the Commonwealth with an essential role in reviewing OCS, as well as other activities, whether direct or permitted, and we encourage the Committee to support continuance of Section 307 of the Act.

Although Federal consistency under Section 307 may need some fine tuning, it is our opinion that at this juncture, the provisions of this section of the CZMA should be left as they currently exist.

Section 312. Review of performance

Massachusetts strongly feels that the annual 312 evaluation should focus solely on a thorough analysis of how well a State is achieving its own goals and objectives as stated in the approved program document.

Massachusetts serves on the Coastal States Organization committee reivewing OCZM's evaluation process. Based upon our participation on that committee and our own experience with two 312 reviews, we support the amendments to this section as proposed in H.R. 6979.

Section 315. Estuarine sanctuaries and beach access

Massachusetts strongly feels that the section of Section 315 addressing public access and the preservation of barrier beaches should be reauthorized and funded.

Every region of the Massachusetts coast is deficient in some type of recreational resource. A study by the New England River Basins Commission estimated that approximately 130,000 additonal acres were needed in Massachusetts coastal communities to meet future recreation demand.

Recognizing this need, Policy 24 of the Massachusetts Coastal Zone Management Plan calls for the "expansion of existing recreational facilities and acquisition and development of new public areas for coastal recreation. Highest priority should be given to expansion or new acquisition in regions of high need or where site availability is now limited." Governor King has included in his 1981 budget a request for a one million dollar appropriation for coastal acquisition. Even if this appropriation is made, it is not sufficient to meet even the near-term demand for additional recreational opportunities in the coastal zone. Were paragraph 2 of Section 315 reauthorized and funded and/or combined with H.R. 6979's proposed Section 306(A) Resource Management grants, States could make greater progress in meeting the demands of recreational needs as well as the need to protect environmentally sensitive areas.

Section 316. Coastal management report

Massachusetts strongly feels that Section 303(C) which states that it is the national policy "for all federal agencies engaged in programs affecting the coastal zone to cooperate and participate with State and local governments and regional agencies in effectuating the purposes of this title" needs to be more fully implemented. The magnitude of the impact on the activities and policies of the many federal agencies on the coastal zone is significant; in many cases far outweighing the impact of local and state action. If the national goals are to be achieved, there is a definite need for a coordinated effort of the individual states and federal agencies.

Amendments to 316 as contained in H.R. 6979 would make it a requirement of the Coastal Zone Management Act for the Department of Commerce to conduct a systematic review of federal programs that affect the coast's resources and to identify conflicts in those programs with the policies of this Act. NOAA has already begun such a review, but making it a requirement of the Coastal Zone Mangement Act would add significant weight and urgency to their effort. As proposed in H.R. 6979, Commerce's review would serve as a basis for recommending changes in other federal programs including possible legislation. Federal agencies found to be in conflict with the policies of this Act would then be required to the extent consistent with the law establishing the subject program, issue or amend appropriate regulations to eliminate such conflict in the administration of that program.

Section 318. Authorization and appropriation

Massachusetts strongly supports the amendments to this section as proposed by Congressman Studds in H.R. 6979 and in particular, the proposed reauthorization of Section 306 for eight years.

In conclusion, Massachusetts feels that it has come a long way since 1974 when it first started to prepare its Coastal Zone Management plan and with continued support through a reauthorized federal act, it can continue to make meaningful progress in managing our critical coastal resources. We join in strongly recommending that H.R. 6979 as introduced by Congressman Studds and reported out of the House Subcommittee on Oceanography be the basis for necessary amendments to the Coastal Zone Management Act. H.R. 6979 reflects the concept of a voluntary program in which the individual states, through their respective plans, develop the guidelines and implementing procedures necessary for achieving the policies of this Act while at the same time it refines the CZMA to enable the states to improve their coastal zone management programs.

Massachusetts would like to thank Chairman Cannon and members of the Committee for the opportunity to submit these comments and trust that they will be of assistance to you.

STATEMENT OF GUSTAVE FRITSCHIE, DIRECTOR, GOVERNMENT RELATIONS, NATIONAL FISHERIES INSTITUTE

Mr. Chairman, I am Gustave Fritschie, Director of Government Relations for the National Fisheries Institute. NFI is a national trade association representing more than 980 companies which harvest process and distribute fish and seafood products. As an association which supported the enactment of the Coastal Zone Management of 1972, as well as the 1974 amendments which provided for a comprehensive study of the shellfish industry, NFI is pleased to have this opportunity to participate in hearings on legislation to extend the Coastal Zone Management Program.

The present status of the Coastal Zone Management Program was explored in detail at a conference sponsored by the Coastal States Organization in January of 1979. As a participant in the program, I believe it afforded many diverse interests and an opportunity to discuss three major issues: (1) the ability of the program to fulfill its promise; (2) the future of Coastal Zone funding; and (3) the role of the States in the Territorial Sea, Great Lakes and the Oceans.

In addition to the CSO Conference, the President, in his Second Message on the Environment, highlighted National Coastal Protection as an important component of his message. In that message, the President indicated he would recommend enactment of new amendments to the Coastal Zone Management Act that would establish a national coastal protection policy. One of the goals of this policy would be to protect significant natural resources, including wetlands, estuaries and fish. The Institute welcomes this Administration's initiative, particularly in view of what we perceive as one of the deficiencies of the program, the lack of an emphasis on the set side of the Coastal Zone.

The pending legislation would amend the Declaraton of Policy to make reference to the protection of fish and wildlife and the consideration on a priority basis of facilities related to fisheries development. The addition of fish and fishery facilities as objectives to be addessed in a state's plan will help focus attention on the wet side of the coastal zone.

Mr. Chairman, that point, namely the need to refocus our attention on the wet side of the coastal zone, is the topic I intend to address in my testimony today. In part, the impetus for coastal zone management legislation was the publication of the National Estuary Study which discussed in great detail the status of the estuarine systems of the United States. In reviewing the legislative proposals introduced in reaction to that study and to the Stratton Commission Report, it is clear that the

primary focus of much of the legislation was the water component of the coastal zone.

Legislation reported by the Merchant Marine and Fisheries Committee defined the landward extent of the coastal zone as follows: "The zone extends inland from the shorelines only to the extent necessary to control those shorelands, the uses of which have a direct impact on wastal waters." In addition, the decision of the Conference Committee to place administration of the program in the Department of Commerce as opposed to the Department of Interior was, in part, recognition of the fact that the legislation was a water-related Coastal Zone Program. In view of the controversy pending at that time with regard to federal land use legislation, it appears that the Act represented a conscious effort to separate problems regarding estuarine areas and other water bodies contiguous to the states from the more comprehensive land use legislation then being debated in Congress. Of particular interest to this Committee may be the following quote from House Report 92-1049:

"It is for that reason that your committee urges the immediate adoption of this coastal zone management legislation, leaving to future action proposed legislation concerning land use policy relating to interior lands. The problems of the coastal zone and in particular the coastal water are significantly unique and should be treated in a separate program."

Unfortunately, the Act, as it has evolved, has not maintained this emphasis on the unique problems confronting coastal wates. In great measure, this was due to the need to respond to the then emerging energy crisis which resulted in the 1976 amendments to the Act. Those amendments granted the states additional powers regarding Shelf energy development. This evolution of the direction of the legislation, plus action of the Congress which resulted in the enactment of the Fishery Conservation and Management Act, has diverted the attention of national groups representing the seafood industry from coastal zone management toward the management and conservation policies developed under that Act.

My comments should not be construed as an indication that the Office of Coastal Zone Management has ignored living marine resources within the zone. To the contrary the Office has implemented a Coastal Fisheries Assistance Program which affords states the opportunity to include this aspect of the coastal zone within their on-going coastal zone programs under sections 305 or 306 of the Act. An objective of that program is "to assist states in accomplishing the expressed purpose of the Coastal Zone Management Act as it applied specifically to living marine resources in the territorial sea and the shoreside facilities necessary to facilitatc wise use of these resources." More than $1.7 million dollars has been expended in supporting fisheries under Sections 305 and 306 of the Act.

Under the Administration's proposal the states would be required to devote increasing percentages of 306 grants to meet the new wastal management needs. In essence, this provision imposes by law the regulation which targeted 306 grants to fishery projects. NFI supports the intent of the amendment. I am concerned, however, this this amendment will be viewed as diverting funds from other components of a state's program. An alterntive mechanism which the Committee could consider is Section 6 of H.R. 6979 which establishes a Coastal Resource Improvement program.

Mr. Chairman, to the extent the Coastal Zone Management Act has increased awareness of particular pressures on coastal resources and prompted state action to address these pressures, the Act has been worthwhile. Increased attention to the problems associated with the "wet side" of the zone will improve the states' efforts and assist in the management and development of this nation's fish and shellfish resources.

Statement by the National League of Cities

The National League of Cities appreciates the opportunity to express the views of the nation's 15,000 municipalities on reauthorization of the Coastal Zone Management Act.

NLC and its member cities supported passage of the 1972 Act, which members of this Committee were so instrumental in securing. Over this decade, coastal municipalities have increasingly recognized the need for wiser use of coastal resources, for more orderly balance among competing uses, and for more directed growth along the 95,000 miles of U.S. coast. The 1972 Act initiated a process for meeting and balancing these needs. And, while local governments have been wary of the law's impact on their traditional land use and zoning powers, we have found that the Act has in general not worked to encourage state or federal agencies to preempt local authority.

NLC's National Municipal Policy, developed by the nation's city officials, supports reauthorization of the Act. Our policy on this issue contains two major thrusts.

First, it strongly supports directing new development into existing urban areas and preserving critical and important natural coastal resources. A second major concern of NLC's policy is to preserve local authority over land use to the greatest extent possible. The current Act achieves a delicate balance between competing federal, state and local authorities, a balance that NLC is hesitant to upset in the reauthorization.

NLC's policy committees have considered the issues raised by the reauthorization of the Act, including the Administration's proposed changes. Our comments are briefly summarized.

1. Program requirements.—NLC supports the general approach in the Administration's bill and in the House bill, H.R. 6979: a simple reauthorization with few changes in Section 306 requirements for state coastal management programs. We agree that it is important not to interrupt the momentum of the 19 states now in the implementation phase by imposing extensive new program requirements.

The addition to Section 303 in the Administration's bill of more defined national coastal goals is an improvement that we believe this Committee should approve. We do not feel that these new goals—which include protection of significant natural systems, reduction of danger in hazard-prone areas, siting processes that give priority consideration to coastal-dependent uses, and waterfront revitalization—would force states to conduct extensive and costly plan revisions. Many states have already included some of these goals in their plans and are moving to achieve them. We agree with the Administration that each state should devote some resources to insuring that progress is made towards achieving the new goals. But we believe, as the House Oceanography Subcommittee does, that there should be a limit on the proportion of federal funds to be devoted to meeting these goals. The House Subcommittee chose 30 percent; we believe that is appropriate.

NLC believes most state and local officials would agree that the new goals defined by the Administration should be key elements of state management plans. We appreciate that the goals are not strict, inflexible program requirements, but are intended to provide a general structure within which each state will construct its own unique program. We hope the Committee will make clear that any new goals are not intended to alter the basic structure of the act which permits each state to establish a process to resolve the conflicts between resource protection and resource development and among state, local and national concerns.

2. Role of local governments.—NLC believes it is of paramount concern to maintain the decentralized, flexible nature of the federal coastal zone management program in order to protect the important role of local governments in the program.

Inherent in the Act has been the possibility of federal or state intrusion on the traditional responsibilities of local governments to determine land uses and zoning within their jurisdictions. To date, this has been more a possibility than a reality. In practice, many states have delegated authority and funds under the Act to local governments who then plan and implement the program within the statewide framework. Nine of the 13 states with more than a year's implementation experience have passed through responsibility and funds to local governments, such as Maine which passes through 66 percent of federal funds. The Conservation Foundation estimates that 30 to 40 percent of federal coastal funds are passed through to local governments.

This impressive cooperation has been possible because the Federal CZM Act focuses on management process requirements. If extensive substantive requirements were added, states would be encouraged to preempt local land use autonomy, and an alteration in the division of responsibilities between state and local governments would be encouraged.

This problem has been amply demonstrated in federal environmental programs that contain extensive substantive requirements. State governments have often believed it necessary to exclude or ignore local governments in order to efficiently and effectively meet the federal requirements. As a consequence, local interest in and political support for the programs have waned and environmental objectives have been thereby undermined. After several disappointing experiences with air quality programs in the early 1970s, for example, Congress in 1977 added new provisions to the Clean Air Act mandating local government involvement with transportation control planning and nonattainment/economic growth planning—two areas of traditional local government authority.

NLC hopes that this Committee will not go beyond the new coastal goals proposed by the Administration to include new mandates or program requirements. If the Committee chooses to do so, we urge you to add new provisions protecting the land use-related authorities of local governments and guaranteeing a significant and meaningful role for local elected officials in planning and implementation.

For example, the House bill contains a new provision (Section 306(i)) that encourages the designation by states of "coastal resources of national significance" and the preparation of use plans for these areas based on defined conditions in the new section. NLC understands the federal concern with certain coastal areas that may have major importance to the nation, and we appreciate that the House bill does not mandate that states make these designations and plans. Nevertheless, this is a significant new substantive provision which we believe should be accompanied by guarantees of adequate consultation with local governments. If this Committee chooses to include provision for nationally significant resources, we hope you will be guided by the policy approved by the nation's municipal officials: "Areas of critical and more than local importance . . . should be identified by a partnership of the various levels of government. . . . For land use of more than local significance, federal, state and local officials should develop planning programs on a joint basis, but general purpose local governments must be assured the primary role in the decision-making and implementation process."

3. Incentives for participation.—NLC strongly supports the continuation of the federal coastal program as one of voluntary participation. One of the major incentives for participation is the promise of federal assistance. The Administration has recommended that federal assistance be significantly reduced from the current level of 80 percent after a state has been in the Section 306 implementation phase for five years. We hope you will not approve this approach. We believe this Committee should provide 80 percent federal funding for the full eight-year authorization period, as the House Oceanography Subcommittee did. This will provide assurance of steady, reliable federal support for the CZM program, a promise that is important to many states in deciding whether to participate. We understand the need to institutionalize coastal management programs at the state and local levels. But we believe that full federal support must be given to this relatively small, but important program, that is only now reaching the implementation phase in most states.

Another incentive which should remain intact in the reauthorization is the "federal consistency" requirement under Section 307. This provision, which permits states to exert control over federal actions that affect the coastal zone, has had limited application to date. But we believe that the Administration's commitment to clarifying the regulations implementing Section 307 and the increasing experience of states in implementing this provision with federal agencies will produce more satisfactory results in the future. We believe Section 307 should be retained without change.

Because funding levels in the Act are relatively low and the federal consistency requirement has not yet been of major benefit, the Committee should consider additional incentives to encourage participation in the program. The House Oceanography Subcommittee, for example, included in their bill a new "Resource Management Improvement Grants" program. These discretionary grants, at a level of $35 million a year, would provide significant encouragement to states both to join the CZM program and to initiate major projects for urban waterfront redevelopment, public access to coastal areas, and preservation of important areas of conservation, recreational or ecological value. NLC views the waterfront program in the House bill as a major tool for channeling growth into existing developed areas and away from critical coastal areas and resources. The grants would also contribute to the Administration's two-year-old urban policy that stresses conservation and revitalization of existing urban areas. The new grant program in the House bill also contains specific authority for allocation of the grants to local governments by the state.

4. Review of performance.—NLC supports a more flexible procedure for review of state management programs than is currently provided in the CZM Act. The Administration's bill is a step in the right direction by providing more flexibility to the Secretary of Commerce as to the proportion of federal funds to be withheld for failure to meet the new coastal goals or to adhere to the approved state plan. However, we believe the additional provisions in the House bill merit consideration by this Committee. Specifically, the House bill's requirement of notice and hearing before federal funds are terminated or reduced is an important procedural change. Likewise, NLC supports the House bill's limit of 30 percent on the amount of federal funding that can be terminated for failure to make significant improvement in achieving the new coastal goals in Section 303.

In closing, NLC urges the Committee to move expeditiously to provide a multi-year reauthorization for the Coastal Zone Management Act. We hope that our comments are helpful in the providing the perspective of the nation's local governments on this important law.

Statement of the National Association of Counties

The National Association of Counties is the only national organization representing the interests of county government in the United States. It exists for the purposes of promoting a better understanding of the role of county government within the federal system, and of serving county governments throughout the United States. NACo is grateful for the opportunity to present its views to this Committee on the proposed amendments to the Coastal Zone Management Act.

The National Association of Counties has long been a supporter of coastal zone management and its objective of providing for community growth, while protecting vital coastal ecosystems and otherwise reducing the hazards associated with development in a fragile natural area. Coastal counties have played, and will continue to play, a key role in the management of coastal resources. It is at the local level of government that the most difficult decisions often must be made, and in local communities where the consequences of decisions affecting natural resources are most immediately felt. And, therefore, coastal counties appreciate the assistance provided by the Coastal Zone Management Act.

But county support of coastal zone mangement is subject to one important qualification. Because much of the responsibility for sound resource management rests on the shoulders of local government officicals, they must have the discretion to exercise their common sense and, hopefully, their good judgement toward the end of balanced growth and environmental protection. Although there has been a lot of talk about "balance," some of it in defense of special interests that wish to exploit coastal resources, there are those in county government who believe that the term still has real meaning. They do not view the question of balance cynically. They do not want to mortgage the future of their communities by sanctioning reckless exploitation, nor do they wish to sell short the present needs of their constituents and neighbors. It is, thus, important to local officials that their opinions and perspectives on coastal resource management be adequately considered by the federal and state governments.

On the whole, NACo is pleased at the way that coastal zone management has worked out for local government. The delegation of planning and regulatory authority to counties, with broad guidance and assistance from federal and state agencies, has generally enabled them to meet present and future community needs for the prudent use and protection of coastal resources. The coastal counties are gratified that both the Administration and Representative Gerry Studds have sponsored legislation to continue the coastal management program. Our specific views on these bills are as follows:

Although the two pieces of legislation appear to share the basic objective of improving coastal mangement, H.R. 6979, introduced by Mr. Studds, seems to be the product of more careful thought about how this improvement should be encouraged. The new concept of "coastal resources of national significance" focuses meaningful attention on the most vital components of the coastal ecosystem. The proposed changes in Section 306—including a carrot-and-stick approach to encouraging specific and enforceable state standards for governing permissible uses of these significant resources—stand in welcome contrast to the vague language of the Administration bill. And the provision for new "Resource Management Improvement Grant" in the Studds bill is a bold recognition of a principle with which county officials heartily agree—namely, that, if the federal government wants the states and local governments to undertake new projects, it should be willing to help pay the cost.

NACo support of the improvement mechanisms of H.R. 6979 is, however, not without reservations. Foremost among these is that, consistently with the objective of encouraging the participation and cooperation of local governments in coastal management (contained in Section 303(3) of the Act, as it would be amended by H.R. 6979), counties should be accorded a central role in the designation of "coastal resources of national significance" and in the establishment of specific state standards for reviewing the uses of coastal resources of national significance. We hope that the legislative history of this bill will make it clear that Congress intends that OCZM and the states make a genuine effort to solicit the views of local governments in amending coastal management plans to include specific standards.

We also have a reservation about the limitation of the Section 306A Resource Management Improvement Grants to states which are participating in the coastal zone management program and receiving 306 funds. While we recognize the desire to encourage additional states to participate by providing another incentive, we are dismayed that this limitation eliminates the possibility that counties within non-participating states may receive funds to carry out their own coastal management improvements. NACo believes that a case can be made for awarding improvement grants to individual counties and municipalities within non-participating states—and this includes the entire Gulf Coast at present—where resource management

questions have been sharpened by continuing controversy, and the national stake in protecting a critical local resource is so great that it warrants federal assistance regardless of state action or inaction. We would welcome the opportunity to work with this Committee to develop a suitable means for opening up this possibility for improved coastal management by conscientious local governments.

With respect to coastal barrier islands, NACo encourages the Committee and the Congress as a whole to give low priority to the acquisition of barrier islands that are already developed, and concentrate on islands that are in a wilderness state or which provide habitat for rare and endangered species. Attention should also be paid to achieving fair geographic distribution of island acquisition, so as to spread out both the benefits and what are considered by some to be detriments of preservation. Where the character of the islands—including passive and active recreation, and in the latter case, the development necessary to support recreational uses. Since local governments derive a significant portion of their revenues from property taxes, and federal acquisition removes land from tax rolls, the principle of payments-in-lieu of taxes should be incorporated into the Section 315 island acquisition scheme in recognition of the public benefits that will accrue at the expense of local revenue.

In conclusion, we would like to offer an observation on the funding levels for coastal management reflected in the legislation before this Committee. County officials, like those at other levels of government, are deeply aware of the need to exercise fiscal restraint and to make the most efficient use of limited funding from whatever source. Hard financial times force some tough economic decisions that effect the social welfare and the quality of life. The Administration bill would appear to force upon the coastal states and their local governments a more difficult, and perhaps unnecessary, choice than would H.R. 6979. Its phase-out of Section 306 funding casts doubt upon the federal commitment to coastal resource protection at a time when many state and local officials are themselves asking whether it is worth the price to continue with coastal zone management.

Again, thank you for this opportunity to present our views on the coastal zone management amendments.

Statement of the American Farm Bureau Federation

The American Farm Bureau Federation is the largest general farm organization in the United States, representing farm and ranch families in 49 states and Puerto Rico.

Farm Bureau members, particuarly those in the coastal zone states, are vitally interested in the pending legislative considerations to reauthorize the Coastal Zone Management Act. Many coastal regions are agricultural areas, therefore coastal zone management programs directly impact Farm Bureau members and the use of their lands.

Farm Bureau is particularly concerned with the impacts of coastal zone management programs with regard to the siting of major facilities related to energy, ports and transportation. These considerations have a direct bearing on agriculture. Agriculture must have an adequate supply of energy to produce and process food and fiber and must be able to transport agricultural products to market.

Since the inception of the coastal zone management program, Farm Bureau has attempted to assure that Coastal Zone Management was a "no-strings" aid to state programs. In the context of such assurance, Farm Bureau assisted in the development and implementation of coastal zone management programs in most of the qualifying states. There are now 19 states with programs that qualify, covering 68 percent of the nation's coastlands.

We believe that credit is due the National Oceanic and Atmospheric Administration for their judicious management of the Coastal Zone Management Act thus far. They have avoided the temptation to "build an empire," or to impose overriding federal wisdom on the states in the development and implementation of their coastal zone management programs.

We concur in the recommendation to reauthorize the coastal zone management program for an additional 8 years, to assist those states which have just begun to implement their programs and other states which are now in the final stages of program development. We support such reauthorization as proposed in the Administration's legislative draft.

The Administration proposes to provide states with a federal matching share of 80 percent for program administration for a 5-year period. The 5-year period would begin in 1978 for those states with programs approved prior to or during 1978, or in later years for subsequently approved state programs. Thereafter, levels of federal

support would decline over a 3-year period to one-third or less of program administration costs.

We believe that this proposal for a phaseout of federal financial assistance is consistent with the underlying purposes and understanding of the coastal zone management program at the time of its enactment. It has been made clear to the states that federal assistance was for program start-up, and that the states were to develop programs which they could afford, independent of federal financial assistance, because such federal assistance was to be phased out.

Conversely, we oppose any effort to reauthorize the Coastal Zone Management Act with full federal financial assistance over the 8-year period. We also oppose any proposal to include legislative provisions that would bar distribution of federal grants, loans and flood insurance for resource use that is contrary to national goals.

We further support the Administration's proposal for continuation of the "hands-off" policy with regard to federal mandates for state programs. We are aware of legislative proposals that require states to inventory, designate and regulate uses of coastal resources of national significance within a certain timeframe. If the states fail to comply, the Secretary of Commerce would be required to act by September 30, 1985. This proposal for federal preemption would be a dramatic departure from the traditional federal "hands-off" posture. We unalterably oppose federal preemption of state programs.

It is not necessary to include in the reauthorizing legislation a requirement that the federal government review and report on programs which violate the goals of the Coastal Zone Management Act. The Administration is already in the process of conducting such a review, and is making needed changes where conflicts are found to exist.

Finally, Farm Bureau opposes any provision for intervenor funding for citizen suits.

We appreciate this opportunity to express our views on reauthorizing the Coastal Zone Management Act.

STATE OF CALIFORNIA—RESOURCES AGENCY,
STATE COASTAL CONSERVANCY,
Oakland, Calif., March 10, 1980.

Senator ERNEST HOLLINGS,
Vice Chairman, Senate Commerce, Science, and Transportation Committee,
Washington, D.C.

DEAR SENATOR HOLLINGS: California has 1,272 miles of coastline of which approximately one-half is potentially accessible to the public. Of this limited area, only a small portion is sandy beach and public action is required to make most of these coastal areas open to the public.

Demand for coastal access increases daily, but funds available to provide it are in very short supply. Congress recognized this need by enacting Section 315 of the Coastal Zone Management Act of 1972, as amended in 1974. Section 315 provides:

"The Secretary may, in accordance with this section and in accordance with such rules and regulations as the Secretary shall promulgate, make grants to any coastal states for the purpose of . . . (2) acquiring lands to provide for access to public beaches and other public coastal areas of environmental, recreational, historical, and esthetic, ecological, or cultural value, and for the preservation of islands. The amount of any such grant shall not exceed 50 per centum of the cost of the project involved, except that, in the case of any estuarine sanctuary, the Federal share of the cost thereof shall not exceed $2,000,000."

The California Coastal Conservancy was organized pursuant to AB 3544 in 1976 in order to implement the California Coastal Act of 1976. The purpose of the Conservancy is to develop and maintain programs that actively preserve and protect the natural and scenic resources of the California coast. Under AB 989, passed in 1979, the Conservancy was charged with primary responsibility for establishing a comprehensive system of public accessways to and along the coast. The Conservancy has innovatively implemented this and other programs, effectively "paying our way" by recycling into new projects the funds received as lands are resold with easements or reservations that preserve coastal resources while protecting the public's right of access. (Enclosed is some additional information regarding the Conservancy which may be of interest to you.)

The Conservancy has been actively implementing such projects opening up important coastal areas to safe public access for the first time. However, our resources are limited and demand for coastal access is great. Federal funds are an urgent need.

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Accordingly, the State Coastal Conservancy has passed the enclosed resolution requesting funding of Section 315 of the Coastal Zone Management Act of 1976.

Sincerely,

JOSEPH E. PETRILLO,
Executive Officer.

DEPARTMENT OF COMMERCE,
Washington, D.C., April 9, 1980.

Mr. MICHAEL L. FISCHER,
Executive Director, California Coastal Commission,
San Francisco, Calif.

DEAR MR. FISCHER: Thank you for your letter of March 6 concerning the outcome of the mediation proceedings between the State of California and the Department of the Interior under the Coastal Zone Management Act. I understand and share your disappointment at the failure of the process to produce a satisfactory resolution of the State's dispute with the Department of the Interior.

Your letter suggested that my letters to you and Secretary Andrus be revised to include the views of former Department of Commerce General Counsel C. L. Haslam with respect to the meaning of section 307 of the Act.

The content and tone of the mediation report reflected the Department of Commerce's responsibility as a mediator. In that position, the Secretary of Commerce is bound to provide the Department's reasoned judgment to the parties during the mediation process to facilitate a resolution of the dispute. However, in the face of failure in the mediation, I believe it is inappropriate for the mediator to allocate blame or impose an arbitrator's judgment on the parties. The Department of Commerce's credibility as a mediator can only be sustained by preserving its neutral posture. I remain hopeful that despite the lack of success of this first mediation effort, the availability of mediation will prove useful in resolving disputes in the future on the basis of good faith negotiations between disagreeing parties.

You also expressed concern that there be a regulatory definition for the term "directly affect." I have directed NOAA Administrator Richard A. Frank to promulgate regulations defining the term "directly affect." I have forwarded to him the record of the mediation for his consideration in developing new regulations. The Haslam memorandum is part of the record and thus will guide NOAA during the rulemaking process.

The Federal consistency provisions of the Act provide a unique intergovernmental coordination system. I am confident that NOAA's rulemaking initiative will lead to a legally sound definition of the term "directly affect" which conforms with Congress' intent and will promote a cooperative dialogue between states with approved coastal programs and Federal agencies. Adoption of such a definition in NOAA's regulations should reduce the likelihood of future disputes about the applicability of the requirements of section 307 to various Federal activities. I urge you to participate fully in the rulemaking process.

I hope this letter clarifies the basis for my mediation report and the consideration that will be given to Mr. Haslam's memorandum. I look forward to a continuation of the close working relationship that has existed between the State of California and the Department of Commerce under the Coastal Zone Management Act.

Sincerely,

PHILIP M. KLUTZNICK,
Secretary of Commerce.

ATLANTIC STATES MARINE FISHERIES COMMISSION,
Washingon, D.C. April 11, 1980.

Hon. ERNEST F. HOLLINGS,
Committee on Commerce, Science and Transportation,
U.S. Senate, Washington, D.C.

DEAR SENATOR HOLLINGS: We have been informed that you will be holding hearings later this month on the reauthorization and extension of the Coastal Zone Management Act (P.L. 92-583, as amended). The Administration's bill, H.R. 6959, contains certain threats to the future effectiveness of that Act which we would call to your attention. We therefore respectfully request that our brief comments here be incorporated into your hearing record, and be fully considered when the committee on Commerce, Science and Transportation takes action on this legislation.

Specifically, we urge retention in CZMA of Sec. 309 authorizing interstate grants and Sec. 10 authorizing assistance for research, studies and training. We further

request your assistance in securing the necessary appropriations to implement these heretofore unfunded and unutilized provisions. We are deeply disturbed at recent indications that the Office of Management and Budget does not support retention of these sections. We view this as yet another instance of OMB failure to comprehend the critical importance of forging workable State/Federal cooperative relationships for proper management of shared resources.

On behalf of our 25 coastal States and five Island Territories, we strongly support retention of these two sections for three related reasons. First, our information base for properly protecting the fragile ecosystems and valuable resources of the coastal zone is seriously deficient and needs immediate strengthening. Second, many of our most pressing conservation and management needs depend utlimately upon coordinated multi-State programs addressing shared resources of bays, estuaries, and contiguous shorelines, and therefore a congressionally mandated program is urgently needed to focus priority attention upon them. Third, no other federal legislation provides an effective means for developing cooperative multi-jurisdictional programs of needed researches and planning and policy development. Please permit us to expand briefly on these three points.

1. The need for improving the information base for coastal zone resource protection and management.—The importance of coastal bays, estuaries, and wetlands in providing nutrients, spawning areas, and nursery grounds for wide-ranging marine species has long been recognized. Thus these coastal resources assume a regional importance far beyond their very great local value. The need for improving our information base concerning these critically important and very vulnerable areas has been underscored recently by the lack of requisite information for management plan development by the Regional Fishery Management Councils. It is impreative that we take steps promptly to mount the necessary researches required to assess productivity. Congress included Section 310 in the Coastal Zone Management Act specifically for that purpose. As will be noted in the following paragraph, Section 309 for support of multi-State programs also offers key assistance to meeting this basic need.

2. Importance of congressional support for multi-State cooperative coastal zone programs.—Capabilities for regional approaches to coastal zone planning and related research must be established to parallel our existing regional planning for management of offshore waters under the Fishery Conservation and Management Act of 1976. Anadromous fishes such as salmon and striped bass traverse the territorial seas, estuaries and river systems of many sovereign States in their extended migrations. Most economically important non-migratory species are distributed through more than one jurisdiction also, and because of the genetic continuity of their populations, are as dependent as the anadromous species upon properly integrated protection and management. Many of these species fall under Regional Council jurisdiction for the offshore ocean phase of their distribution, but Council authority does not extend to the coastal zone. We are in urgent need of institutional mechanisms to fill that gap in a manner satisfactory both to the Federal government and to the sovereign States.

Sec. 309 of the Coastal Zone Management Act authorizes precisely the kind of institutional mechanism that is needed, not only to interact properly with the Regional Councils, but also to address problems inherent to the territorial seas and the coastal zone. In view of the degree to which bays and estuaries are shared by neighboring States, coupled with the commonality of problems and needs, implementation of this coordinating capability is long overdue. Clearly ecological factors and the distribution of organisms affected by them respond to natural laws which are quite independent from the political boundaries created by society.

Notably, the interstate marine fisheries commissions provide mechanisms already sanctioned by the Congress and their member States for precisely the purposes laid out in Sec. 309 with respect to fisheries. As will be noted below, the time is right to move toward effective implementation of this multi-jurisdictional approach to coastal zone problems.

3. Unique capabilities of CZMA Sections 309 and 310 to meet urgent fisheries planning and management needs in the coastal zone.—As noted earlier, for adequate protection and management of our valuable living marine resources, we must improve our information base and our management capabilities along the coastal interface of land and sea, and we must do so on a regional basis that will bridge existing jurisdictional barriers. Sections 309 and 310 of the Coastal Zone Management Act specifically address these critical needs, and provide most appropriate mechanisms for encouraging the necessary multi-jurisdictional approaches to them.

Recent decisions reached jointly by our States' fisheries Directors demonstrate State readiness to move toward such cooperation and support. At a national conference convened last January 29–31, by the National Marine Fisheries Service, the

Fisheries Directors of 30 Coastal and Great Lakes States and five US island Territories identified Section 309 of the Coastal Zone Management Act as a high priority legislative mandate for support of cooperative State/Federal interactions for fisheries protection and management. They emphasized a multitude of new research and data collection demands generated by recent federal legislation, including the Fishery Conservation and Management Act, Marine Mammal Protection Act, and Coastal Zone Management Act. They gave top priority to improvement of State/Federal cooperative programs for protection and management of shared fishery resources in the nearshore as well as offshore environments. They specifically cited Section 309 of the Coastal Zone Management Act for its capability to generate shared research and management programs for bays, estuaries, wetlands, and coastlines.

We understand that OMB has taken the position that Section 309 is a redundant section since any State could apply Section 306 funds to fund its share of a cooperative multi-State program. Let us emphasize that on the basis of our long experience in facilitating multi-jurisdictional cooperative programs, this is not a practical alternative to implementation of Section 309. It will rarely if ever be politically reasonable to expect a State faced with clear limitations on total amount of Federal funding available to reduce priorities for its own in-state programs to free up funding of a multi-State program. Particularly where matching funds are required, political realities demand that money derived from a State's constitutent tax payers be allocated where the greatest returns can be demonstrated to them. Since the national need is for a regional approach to regional problems, we urge that a legislative mandate be maintained through Section 309 for appropriate multi-jurisdictional program development, and that reasonable levels of federal funding be provided to implement that mandate.

To summarize, clearly the United States Congress has recognized and sought to support coordinated regional approaches to regional problems in management of fishery resources which range through the multiple jurisdictions of our coastal States and the Fishery Conservation Zone. The Regional Fishery Management Councils were created to address offshore fishery conservation and management problems. Section 309 was written into the Coastal Zone Management Act to encourage parallel and supportive cooperative action nearshore, in the bays, estuaries and wetlands which are critically important habitats for our living marine resources. While cooperative management programs have moved forward effectively for the Fisheries Conservation Zone under the drive of Regional Council actions, parallel supportive programs for the coastal zone have not developed, principally because Section 309 of CZMA has never been funded. Today, the need is more critical than ever, and no practical alternative to Section 309 exists. On behalf of our coastal States, we therefore strongly urge retention of that valuable enabling legislation, and Congressional support for the appropriations necessary for its implementation.

This issue is so important to us that we will be pleased to offer direct testimony for our position at your hearing if you so desire. Please call on us if we can be of further service to you and the Committee on Commerce, Science and Transportation.

Sincerely yours,

IRWIN M. ALPERIN,
Executive Director.
JOHN P. HARVILLE,
Executive Director,
Pacific Marine Fisheries Commission.
CHARLES H. LYLES,
Executive Director,
Gulf States Marine Fisheries Commission.

AMERICAN FISHERIES SOCIETY,
Bethesda, Md., April 16, 1980.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HOLLINGS: Irwin Alperin, Atlantic States Marine Fisheries Commission Executive Director, has thoughtfully provided me with a copy of his letter to you of April 11. The thrust of his persuasive comments concern the importance of retaining Sections 309 and 310 of the Coastal Zone Management Act (P.L. 92-583).

The American Fisheries Society, with 8,000 plus members, is the world's oldest and largest organization of professional fisheries scientists. We consider that Sections 309 and 310 have tremendously important implications for the nation's coastal

fisheries resources and deplore the fact that these potentially valuable sections have remained unfunded and unutilized. We support completely the position espoused by Mr. Alperin and, if appropriate, ask that our views be made a part of the record of hearing.

Respectfully,

CARL R. SULLIVAN,
Executive Director.

NEW ENGLAND RIVER BASINS COMMISSION,
Boston, Mass., April 23, 1980.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science, and Transportation,
Russell Senate Office Building, Washington, D.C.

DEAR SENATOR CANNON: As Chairman of the New England River Basins Commission, I apppreciate this opportunity to express my views on the reauthorization of the Coastal Zone Management Act. The Commission's involvement in coastal planning precedes the original passage of the Coastal Management Act. Since the New England states became actively involved in coastal management, our coastal programs have been developed and undertaken in close cooperation with state coastal zone management officials. In 1974, under the auspices of the Commission, the New England/New York Coastal Zone Task Force was established to promote regional cooperation and coordination in coastal planning and management. Currently, the states of Maine, Massachusetts and Rhode Island have Coastal Zone Management Programs that have been approved by the Secretary of Commerce. Approval of the Connecticut Coastal Management Program is expected by September 1980. The Legislature of New Hampshire and New York are in the process of approving coastal legislation which will make these states eligible for program approval.

At this time, I would like to express my strongest support for the reauthorization of the Coastal Zone Management Act. I cannot overemphasize the importance of reauthorizing Section 306 (Program Administration) for eight years. In my view, the Coastal Zone Management Programs of this region are working well and deserve additional years of Section 306 support. The Coastal Zone Management Programs of the region are addressing such long-term difficult issues as the safe disposal of dredged materials, the redevelopment of ports and urban waterfronts and the orderly development of offshore oil reserves. Therefore, the timely reauthorization of the Coastal Zone Management Act would enable the considerable progress attained by the coastal states to be sustained.

Please feel free to contact me if I can be of further assistance.

Sincerely yours,

JOHN R. EHRENFELD, *Chairman.*

NATIONAL ADVISORY COMMITTEE
ON OCEANS AND ATMOSPHERE,
Washington, D.C., April 24, 1980.

Hon. HOWARD W. CANNON,
Chairman, Commerce, Science, and Transportation Committee,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR CANNON: The National Advisory Committee on Oceans and Atmosphere (NACOA) has been asked to comment on the Adminisration's proposal, now before your Committee, for amendments to the Coastal Zone Management Act of 1972 (CZMA). We testified before your Committee in the past on this subject, and in January of 1979, we submitted recommendation to Congress and the President in a special report, "Costal Zone Management 1978." Our comments today are based on the recommendations that we made in that report, and we refer you to the report itself for additional details and proposed statutory language.

NACOA has examined the Administration's proposal and found it wanting. We believe that changes to the substantive provisions of the CZMA are necessary. Section 2 of H.R. 6956, the Administration's bill, would amend the "policy" section of the CZMA to add a list of eight, apparently equally-weighted policies to the Act. Among our concerns with this approach is whether this proposed change in the name of "specificity" would actually turn the CZMA more towards coastal development, and "balancing," than the Federal courts have held it to be today. If the object of the Administration's proposal is to create more specificity in State plans, we believe that the changes belong in Section 306 of the Act rather than in the "policy" section, Section 303.

The Administration's second proposal calls for the use of the Section 312 review process as a tool for "jawboning" States into line with what the Federal Office of Coastal Zone Management feels is compliance with its eight proposed purposes. We believe that the CZMA has not produced the kind of State management of coastal resources that Congress originally envisioned in 1972. The substantive provisions of the Act must be amended to provide a higher degree of certainty in the management of the Nation's coastal resources than exists in the State plans that are now being and have been approved.

NACOA's recommendations for amendments to the CZMA proposed a "third phase" of coastal zone management as a follow-on to the existing Section 306 program. The NACOA recommendation is similar in effect to the proposal that was contained in H.R. 6797 as originally introduced by Mr. Studds of Massachusetts. That proposal calls for States participating in the Federal program to identify critical natural resources in their coastal zones that require the maximum possible protection, and to protect them accordingly. Those same States also would be required to identify areas within their coastal zones where needed development could take place, and to encourage development to be directed into such areas. Where a State is not interested in participating in the third phase of coastal management, both our proposal and Mr. Studds' original bill would have the Secretary of Commerce step in and regulate all *Federal* activities within the coastal zone of a nonparticipating State. The Secretary would promulgate regulations according to the scheme outlined for the proposed third phase of coastal management.

NACOA also recommended that Section 307, the "Federal consistency" Section of the CZMA, be amended to give the States the final decisionmaking authority in determining whether or not a proposed Federal activity is consistent with the State's Coastal Zone Management Plan. This would eliminate the present system where this power is given to the States under some circumstances and to the Federal agencies in other circumstances. Neither the Administration's proposal nor the House bill address this problem, and we strongly urge your Committee to consider such a change.

We welcome this opportunity to make our views known once again to your Committee, and we would be pleased to provide any additional input that you or your staff might require.

Sincerely yours,

EVELYN F. MURPHY, *Chairman.*

NORWICK, RAGGIO, JAFFE & KAYSER,
New York, N.Y., April 24, 1980.

Senator ERNEST HOLLINGS,
Senate Office Building,
U.S. Senate, Washington, D.C.

DEAR SENATOR HOLLINGS: I understand that hearings are scheduled for April 30, by the Senate Commerce Committee on legislation to reauthorize and strengthen the Coastal Zone Management Act of 1972.

I urge you to support the amendments that have been incorporated in H.R. 6979, introduced by Congressman Gerry Studds.

I have worked extensively with organizations in New York State trying to get a coastal management program in this state. I am confident that the proposed amendments to the federal CZMA will strengthen New York's program as well as CZM programs in other states.

H.R. 6979 is *vital* to the protection of high hazard coastal areas—beaches, dunes, wetlands and barrier islands. It will improve opportunities for public areas to the coast. It contains significant provisions encouraging participation in decisionmaking by all levels of government. It would add a citizen suit provision that may be controversial but I consider extremely important and deserving of your support.

I urge your support, however, for changes in H.R. 6979 with respect to Section 306 to require states to define permissible uses for coastal resources identified as being of national significance. H.R. 6979 would also be strengthened if it authorized the Secretary of Commerce to cut off CZM funding to states that fail to spend at least 30 percent of their grants on measures to achieve the new section 306 objectives.

Yours very truly,

ROBERT C. STOVER,
Counsel to The Center for the Hudson River Valley.

U.S. SENATE,
Washington, D.C., April 28, 1980.

Hon. ERNEST F. HOLLINGS,
Chairman, Subcommittee on Communications, Senate Commerce, Science, and Transportation Committee, Washington, D.C.

DEAR MR. CHAIRMAN: The Coastal Zone Management Act of 1972, as amended has provided State and local governments with the support necessary to develop and implement plans for the wise management of our valuable coastal areas. We endorse reauthorization of this important Act in the belief that continued Federal support of state programs will benefit the Nation.

The State of Washington, with the support of its coastal zone program, has been involved in developing a Special Area Management Plan for Grays Harbor, a substantial estuarine system with valuable natural and economic assets. This process, which we encouraged a number of years ago, has brought together Federal, State, and local agencies, economic interests and the public to develop a plan for the estuary which will provide long-term specific guidance on protection and development issues. While it has been a difficult undertaking, when approved we believe it will produce satisfactory results for all concerned. Importantly, this plan will eliminate much of the uncertainty over future development decisions and will help reduce the lengthy, costly and often frustrating process of securing decisions from government agencies.

We believe this approach will benefit all States involved in coastal management and encourage you to consider adopting Special Area Management Planning as a formal element of the Coastal Zone Management Act. In designing the SAMP, it is essential that some method for expediting, and simplifying the decision-making process for such plans be incorporated. Further, we also encourage you to insure, as part of the process, that the States are provided adequate technical and financial resources to successfully use this process.

Sincerely yours,

HENRY M. JACKSON.
WARREN G. MAGNUSON.
U.S. Senators.

STATE OF ALASKA,
April 29, 1980.

Hon. ERNEST HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HOLLINGS: The Alaska Coastal Policy Council has been informed that the Senate commerce committee is planning to hold a hearing on reauthorization of the federal Coastal Zone Management Act of 1972, as well as possible amendments to that Act, on April 30, 1980.

We understand that there is very little time remaining during the current session of Congress to conclude any actions on this act, but would appreciate it greatly if you could include this letter and attachments into the record for that hearing on April 30.

As we understand it, your hearing is ostensibly on the reauthorization bill proposed by the Carter administration. However, we have reviewed H.R. 6979 introduced by Representative Studds and others, and we would encourage you to substitute the Studds proposal for that of the administration. In Lt. Governor Miller's testimony to Representative Studds, it was noted that the state is generally supportive of H.R. 6979, but that we have two other areas of concern thus far which have not been addressed in any introduced legislation. We would like to bring these concerns forward through this letter.

First is the difficulty we are experiencing with Section 307 of the Coastal Zone Management Act. While we would generally like to see a simplification and clarification of this section, we understand that Congress may be unable to address some of the deep issues surrounding Section 307 during the current session. So we will be content to wait until a more appropriate time.

There is, however, one passage of Section 307 that we would like to see either amended now or reinterpreted. The language of 307(c)(3)(A) reads; "AFTER final approval by the Secretary of the State's managment program, any applicant for a required Federal license or permit to conduct an activity affecting land or water uses in the coastal zone in that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner

consistent with the program." This one sentence has caused more awkwardness and difficulty than any of the other provisions of Section 307. In essence, it requires that an applicant determine for himself whether he *believes* his project is consistent with the state coastal management program prior to the time he applies for a federal permit and prior to the time the project is reviewed by the state.

The substance of the matter is simply that federal licenses and permits for significant actions along states' coastal zones are reviewed by the states through routine review procedures, typically A-95 Clearinghouses. This review can take a month or two, and is usually thorough and balanced, as is certainly so in the case of our state. By virtue of Section 307, states have practical veto powers over non-federal applications for licenses and permits, but this is exercised through the rather contrived mechanism of empowering the state to "concur" with an applicant's "certification". Rather, it is the state that should simply certify whether an application for a proposed activity is consistent with the state's program.

We work with applicants on an informal basis to insure that their projects are consistent with the Alaska Coastal Management Program and we are sure other states do the same. It would be far simpler for us, as well as the federal regulatory agencies involved, to simply review the federal application as the applicant would normally submit it. Questions also arise about whether a given proposal is in or out of a state's coastal zone. Often a federal agency can detemine this much more easily than the applicant can and certainly the state can do it on behalf of both.

The second sentence in the same subsection requires the applicant to submit copies of the certification and information to the state. This is not necessary for Alaska. This material can come to the state from the federal agency. If it is necessary for other states, then the other states have the power to cause it to happen either directly or through agreements with effective federal agencies. It would vastly improve the functioning and acceptability of Section 307(c)(3)(A) for the first two sentences to be deleted and something akin to the following to be inserted: "After final approval by the Secretary of the state's coastal management program, Federal agencies shall forward applications for Federal licenses and permits to conduct activities affecting land and water uses in the coastal zone of that state with a request for a state certification that the proposed activity complies with the state's approved program and that such activity shall be conducted on a manner consistent with the program."

Some concern has been expressed about opening Section 307 to *any* amendment at the present time. If this is the currently prevailing attitude in the Senate, then we would plead for some type of indication or direction from Congress that would allow the federal Office of Coastal Zone Management to make a regulatory interpretation of Section 307(c)(3)(A) that allows a state to waive this requirement on federal permit applicants; and simply declare that if an applicant submits a request for a permit then he has *de facto* certified as to consistency with the state's coastal program. It is clear what Section 307(c)(3)(A) is intended to accomplish. We can meet that intent much more simply and directly through means other than the procedural requirements contained in that section, and all we ask is congressional assent for doing so.

The second major issue we would like to bring to your attention is the definition of the term "coastal zone". As you are aware, currently all federal lands of any description, including lands rented by the federal government, have been determined by the U.S. Attorney General to be excluded from the coastal zone, no matter how transitory the ownership or control status of such lands may be. The changing nature of federal boundaries, especially in Alaska, is certainly one reason for including at least some types of federal lands into state coastal zones. The other and probably more compelling reason for including nearly all, if not all, federal lands into state coastal zones, is simply that state coastal programs are by law obligated to respond to all sectors of the national interest as well as all sectors of the state and local interest that have any legitimate concern with how coastal resources are managed. Yet, no single federal agency can claim to represent the entire national interest, nor can any single federal agency claim to have as broad a charge for representing such interest as do state coastal management programs.

As you are no doubt aware, interpretations of Section 307 do allow state coastal managment programs to have some influence on federal actions taking place on federal lands if those actions create "spill over" impacts on state coastal resources. However, strict interpretation of the federal law would suggest that states and local governments may not plan for federal lands in the planning phases of their programs. This causes a confusing and apparently contradictory situation. But the matter worsens when one realizes that states *do* have some regulatory authority on federal lands aside from coastal management and so it appears that states are more restricted by coastal management than through other mechanisms. This too seems

contradictory with the general trend in the balance between state and federal responsibilities.

The most commonly voiced opposition to including federal lands within states' coastal zones is the fear that states could run roughshod over the national interests, or thwart legitimate missions of federal agencies. This is simply unfounded. States are obligated under the rules of coastal management, many historical and legal precedents, and the Constitution of the United States to be responsive to the national interest, however it may be described. Plenty of mechanisms exist to protect the national interest from errant state decisions, and we will not say that there haven't been some among the fifty states. Still more protection could be built into the Coastal Zone Management Act if it is necessary to provide comfort to the federal establishment. Several solutions exist to respond to this concern, the simplest of which is to amend Section 304(1) by deleting the last sentence which speaks to exclusion of federal lands; or, the same passage could be amended by declaring that those lands under the jurisdiction of the federal government, where the state has no jurisdiction whatsoever, are excluded.

We realize that solving the question of federal excluded lands may be controversial and perhaps could or should wait until next year or later to be fully resolved. As with our concern over Section 307(c)(3)(A), however, it is possible that an intermediate solution could come in a clarified statement of congressional intent which could be use to revise the legal opinion under which we now operate.

We are at your disposal if we can be of any possible assistance in your deliberations. Thank you for any attention you can give to our concerns, and thank you for your continuing support and interest in coastal management.

Sincerely,

FRANCES A. ULMER,
Cochairperson.

DONALD GILMAN,
Cochairperson.

NATIONAL ASSOCIATION OF CONSERVATION DISTRICTS,
Washington, D.C., April 29, 1980.

Senator ERNEST F. HOLLINGS,
Vice Chairman, National Oceans Policy Study, Committee on Commerce, Science, and Transportation, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR HOLLINGS: It is our understanding that the Committee on Commerce, Science, and Transportation will be holding hearings on the Coastal Zone Management Act on April 30, 1980. We respectfully request that this letter be entered in the record of that hearing.

The National Association of Conservation Districts (NACD) represents the nation's 2,924 conservation districts, 50 state associations of conservation districts and 17,000 conservation district officials that serve them.

Coastal zone problems have been a major concern of the some 500 conservation districts in the coastal zone since they were organized. In 1963, NACD established a national committee on Shore Erosion. This committee was later broadened and named the Coastal and Shore Resources Committee. Objectives of the committee include gaining support for pilot or demonstration projects, developing a working relationship with the Office of Coastal Zone Management and State coastal zone management agencies, encouraging coastal states to develop and implement programs through appropriate legislation, expand needed research, and expanding the use of adapted plant materials for coastal and shore erosion control.

The Role of Conservation Districts in the Coastal Zone Management Program is a publication developed in 1970 under a contract with OCZM. Copies are enclosed for your committee members. This publication outlines many of the concerns in the coastal zone of conservation districts, including their strong support for locally developed voluntary programs, and a suggested plan of action for participating in coastal zone management program planning and implementation.

With this background we offer the following comments:

1. The Declaration of Policy section of the Act should be amended to include consideration of productive ecosystems, such as prime and unique cropland, forestland and grazing land. We recommend that a statement be added as follows, "for the protection of productive ecosystems such as prime and unique cropland, forestland, and grazing lands."

2. Section 304, Definitions, paragraph (10) should be amended to include soil conservation districts. As stated earlier, conservation districts have become involved in the CZM program and virtually all of the coastal zone is covered by conservation

districts and all conservation districts have concerns in the way these lands and waters are managed.

We recommend that paragraph (10) of Section 304 be amended by adding *soil conservation district* following "fire district."

3. Although Section 310 of the Act, entitled, "Research and Technical Assistance for Coastal Zone Management," has never been funded, we believe that technical assistance and research capabilities are essential to the long-term success of any program and should be provided for. We recommend that Section 310 be retained in the Act.

4. Proposals have been entertained on the House side to amend Section 306 of the Act to require federal regulations where states fail to amend their programs to comply with paragraph (i)(1) of Section 306. Such a proposal would remove the voluntary nature of the program and would make it a federal program rather than a state and local program as intended from its inception. We oppose this proposal.

5. We see no need for provisions in the CZM Act for citizens suits. If programs are mismanaged, there are ample provisions in the law to bring suits.

6. We also favor extending the funding authorization for another full 8 years.

These items represent our major concerns in this most important program. We believe the program should be continued into full implementation. Our member conservation districts are anxious to assist with implementation within their statutory authorities.

Thank you for this opportunity to comment. If we can furnish additional information, please feel free to call.

Sincerely,

R. NEIL SAMPSON,
Executive Vice President.

WILDLIFE MANAGEMENT INSTITUTE,
Washington, D.C., April 29, 1980.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science, and Transportation,
Senate Office Building, Washington, D.C.

DEAR SENATOR CANNON: The Institute appreciates the invitation to comment on legislation to amend the Coastal Zone Management Act. We commend the Committee for its prompt attention to this important subject.

After studying the Administration's proposal and H.R. 6979 developed by the House Subcommittee on Oceanography, we find that both have provisions that could improve the Coastal Zone Management Act. It is our opinion, therefore, that the best of both bills should be combined into legislation that is most responsive to coastal resource needs.

We support the 8-year reauthorization in H.R. 6979 as opposed to the 5-year extent of the Administration bill. We also prefer the full-term 80 percent cost sharing in H.R. 6979 rather than the phase-down to 33⅓ percent in the Administration bill.

We endorse language in both bills that specifies national policy objectives for the CZMA, requires the states to invest certain amounts of their grants to achieve those objectives, authorizes NOAA to evaluate how well the states respond, and broadens the Administration's authority to guide state programs without terminating funding. These are constructive provisions that would balance state-federal partnership in coastal resource management.

The Institute, however, does not favor language in H.R. 6979 that threatens state governments with a federal takeover of sighnificant coastal resources if the state does not comply with federal guidelines. It has been our experience that resource management is enhanced when federal and state agencies cooperate on a more or less equal basis. A joint program can be much more effective than a program supported by only one level of government, because more funds and expertise are available. The threat or reality of a federal takeover tends to alienate states.

The Marine Mammals Protection Act of 1972 is an example of excessive federal intrusion into resource management that traditionally had been under state control. Alaska, which harbors most of the country's marine mammals, became irritated and terminated its farily sophisticated management program. Marine mammals in Alaska are now a federal responsibility, but, funds and personnel have not been supplied to regain the level of management attention that the state once supported alone.

Finally, Mr. Chairman, we question the value of the citizen suit provision in H.R. 6979. This could spawn unwarranted legal actions against NOAA and be very wasteful of scarce resources that could be invested to greater advantage in manage-

ment activities. If any party has a legitimate complaint about the coastal zone program, there are adequate existing legal means to process that complaint in court. Furthermore, we think it unwise to authorize use of public funds to underwrite court tests of private individual and group opinions.

We would appreciate having this letter inserted in the hearing record.

Sincerely,

LONNIE L. WILLIAMSON,
Secretary.

THE SOUTH CAROLINA WILDLIFE FEDERATION,
Columbia, S.C., May 2, 1980.

Hon. ERNEST F. HOLLINGS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HOLLINGS: On behalf of the membership of the South Carolina Wildlife Federation, I am taking this opportunity to express the views of this Federation with regard to upcoming hearings on the Coastal Zone Management Act (CZMA). We understand that the Senate is requesting witnesses to testify on the authorization and extension of the CZMA and to comment on the amendments being proposed by the Administration.

As you know, the South Carolina Wildlife Federation has strongly supported the CZMA from its inception. Further, we have been fully supportive of the South Carolina Coastal Council which has been established as a result of the CZMA legislation. The Federation wishes to go on record as supporting the authorization and extension of the CZMA and we encourage you and your Senate colleagues to develop a bill which will add to, and strengthen, existing provisions of the Act.

We have reviewed the various amendments that were presented during the House hearings on this issue. With only minor improvements, we firmly support the amendments proposed in H.R. 6979. We believe that if implemented, these amendments would greatly improve the ability of the CZMA to be an effective legislative tool to encourage wise and balanced use of our coastal resources. Specifically, the South Carolina Wildlife Federation supports H.R. 6979 with the following strengthening measures.

In the event that the Department of Commerce should inventory coastal resources of national significance and establish permissible uses for any state, the Secretary of Commerce shall be required to coordinate with all Federal agencies that have interests in these resources.

The Resource Management Grant program should be worded to specifically exclude any grant that would increase access to, or provided transportation systems which would induce development of wetlands, flood plains or barrier islands.

Please be assured that the resource-minded citizens of South Carolina support your effort to extend the Coastal Zone Management Act and to make the necessary improvements.

Kindest regards,

JACQUELINE E. JACOBS, PH. D.,
Executive Director.

COASTAL ZONE TASK FORCE,
Boston, Mass., May 5, 1980.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science, and Transportation,
Washington, D.C.

DEAR MR. CHAIRMAN: The New England/New York Coastal Zone Task Force appreciates this opportunity to comment on the reauthorization of the Coastal Zone Management Act. As the state officials with responsibility for administering the Coastal Zone Management Programs of Connecticut, Maine, Massachusetts, New Hampshire, New York and Rhode Island, the following comments reflect our collective experience in planning and managing over 8,000 miles of coastline. We have been participating in the House Merchant Marine and Fisheries Committee's CZM reauthorization deliberations and are now pleased to be able to express our views to the Senate Commerce Committee.

The key to the continued effectiveness of Coastal Zone Management is the reauthorization of Section 306 of the CZM Act. It is our strong recommendation that Section 306 be reauthorized in full for eight years. An eight-year reauthorization would enable the considerable progress attained by coastal states thus far to be

sustained. In addition, an eight-year reauthorization would be an incentive to those states not yet with approved CZM Programs, such as New Hampshire and New York, to continue to seek program approval.

It has been our position, as well as that of most coastal states, that the CZM Act should be reauthorized, but not extensively amended. We have observed that the Act, while not perfect, is working well. Nevertheless, we recognize the fact that the CZM Act will probably be amended and reauthorized. We have noted in testimony presented to the House Merchant Marine and Fisheries Committee that H.R. 6979, as reported out by the Oceanography Subcommittee, is an acceptable bill. In contrast to the Administration's bill, H.R. 6956, H.R. 6979 is a balanced bill that has received the endorsement of most coastal states.

We strongly recommend that the Senate Commerce Committee use H.R. 6979, as reported by the Oceanography Subcommittee, as a model for the reauthorization and amendment of the Coastal Zone Management Act.

If we can be of further assistance or should you have questions concerning our statement, please feel free to contact me.

Sincerely yours,

ESTHER LACOGNATA, *Chairman.*

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
Washington, D.C., May 5, 1980.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HOLLINGS: At the recent Commerce Committee hearing on the Coastal Zone Management Act, a number of witnesses expressed their belief that the Coastal Energy Impact Program ("CEIP") should be broadened to include coal transshipments, coal being one source of energy not sufficiently covered under the program.

The need for specific reference to coal in the program is clear. During the last three years, coal transport on the Great Lakes reached 40 million tons annually. The projections for coal transshipment in the Great Lakes show that tonnage could increase to 135 million tons per year by 2000. This is a 360 percent increase over the 1977 figures and more than double the historic high of 1948. Section 308 of the Coastal Zone Management Act currently does not adequately enable states, especially those in the Great Lakes region to mitigate these coal-related impacts.

James F. Ross, Chairman of the Coastal States Organization testified that:

"The Great Lakes states have commented that it would be to their advantage to have the transshipment of coal included in section 308(b). *This is certainly a much needed provision,* and is in accord with the intent of the original section 308. Coastal states have also expressed concerns over proposed reductions in funding levels of the CEIP program." (Emphasis added)

The recognition of coal in the CEIP is consistent with and complementary to our national energy policy. As we attempt to rely more heavily on domestic sources of energy, such as coal, it is necessary that we recognize their impact within programs designed to protect and manage our environment.

Arguing before the Committee that the Coastal Energy Impact Program should be amended now to address the increased use of coal—just as the program was developed to address the increased oil activities in 1976—Chris A. Shafer, on behalf of the Michigan Department of Natural Resources testified convincingly that:

"The analogy between the Outer Continental Shelf 'federally induced' impacts to coal-related coastal impacts is quite strong in view of the President's mandatory coal conversion program and the U.S. Environmental Protection Agency clean air standards which necessitates the use of western coal."

We agree and wish to take this opportunity to express our desire that the Committee favorably recognize the coal issue and the need for additional funding in order to mitigate its impacts on our coastal areas in Senate Report language accompanying the bill, S. 2622.

We wish to take this opportunity to also support recommendations before the Committee with respect to providing technical assistance for hazard mitigation and for urban waterfront restoration.

We appreciate your attention to this matter. We look forward to favorable action with regard to our recommended approach. Please do not hesitate to contact any one of us should there be any problems.

Sincerely,

DONALD W. RIEGLE, Jr.
CARL LEVIN.
GAYLORD NELSON.

ADVISORY COUNCIL ON HISTORIC PRESERVATION,
Washington, D.C., May 14, 1980.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Advisory Council on Historic Preservation understands that the Committee on Commerce, Science, and Transportation is considering S. 2622, a bill to amend the Costal Zone Management Act of 1972. The Council has reviewed State programs developed in response to the requirements of the Act and has learned of the effects of program implementation from State Historic Preservation Officers in the coastal States. Based on this informatoin, it appears that historic and cultural properties are not being adequately or consistently considered in State programs developed to manage the coastal zone.

As you know, in enacting the Coastal Zone Management Act, Congress recognized the need to assist States in protecting "important ecological, cultural, historic and aesthetic values in the coastal zone which are . . . being irretrievably damaged or lost" (16 U.S.C. 1451). Congress also intended for State plans, as set out in coastal zone management programs developed with Federal assistance, to guide the actions of Federal agencies. To date, historic and cultural properties have largely been neglected in State programs, leaving unfulfilled Congress' intent to protect these values. This has also undermined Congress' desire to ensure that Federal actions which affect coastal resources are consistent with State goals.

Under the Federal guidelines for State programs, a State may designate as "areas of particular concern" (16 U.S.C. 1454(b)(3)) those areas that contain "historical significance, cultural value or scenic importance . . ." (15 CFR Section 923.21(d)(1)(i)). However, historic properties are not usually viewed as an important part of coastal zone resources. Designation is entirely at the option of the State, and there has been little encouragement from the Federal Government to exercise this option. As a result, cultural properties do not receive adequate consideration in water and land use planning, and effective steps to halt the inadvertent loss of cultural properties do not exist.

For example, in Jamestown, Rhode Island, the State coastal commission reviewed and approved a development proposal without taking into account one of Rhode Island's most important archeological sites which was threatened by the development.

Additionally, the goals set out in State programs frequently do not guide the actions of Federal agencies in dealing with historic and cultural properties. If these properties are not dealt with adequately in a State program, land uses that could destroy them may be permitted. Nevertheless, Federal agencies are required by other statutes to consider the effects of their undertakings on historic and cultural properties; thus a State program which does not adequately consider such properties provides limited guidance to Federal agencies in dealing with undertakings that affect historic and cultural properties.

Planning at the State and Federal levels should have the same objectives and should draw on similar information, especially when both are working for wise use of the invaluable coastal resources. Good planning and consistency between the State and Federal Governments cannot come about when important historic and cultural properties are neglected or casually treated. All important resources in the coastal zone, including cultural properties, should be a constant value in all planning and land use decisions.

These problems can be remedied in the process of the proposed amendment of the Coastal Zone Management Act. The Office of Coastal Zone Management needs to place greater emphasis on the consideration of cultural resources in State programs. The Council recommends that the amendment, or its legislative record, emphasize the need to ensure consistent and sound planning at all levels of government.

Sincerely,

ROBERT R. GARVEY, Jr.,
Executive Director.

DEPARTMENT OF ECOLOGY,
Olympia, Wash., June 4, 1980.

Senator ERNEST HOLLINGS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HOLLINGS: The State of Washington, through the Department of Ecology, is in the final stages of completing an 11,600 acre Estuarine Sanctuary in Padilla Bay, Skagit County which is located in the North Puget Sound area of the state. The sanctuary will be managed by the State Department of Game and will be operational July 1, 1981.

Planning, through the Coastal Zone Management Act (CZMA) of 1972 (P.L. 92-583), for the utilization and protection of the state's vast coastline resources provides the state and the private sector many opportunities to establish areas for public use and enjoyment, as a benefit to the state's economy and liveability.

Funding assistance from the National Oceanic and Atmospheric Administration (NOAA) of the sanctuary program is an essential part of shoreline management. However, with approximately 2400 miles of shoreline and 3000 square miles of marine waters the current limit of one NOAA supported sanctuary in each biological and geographic region limits our efforts to realize the full benefit of sanctuary projects and programs.

Therefore, your consideration and support of the following recommendations as they relate to the NOAA-OZCM estuarine sanctuary program is requested.

1. That there should not be a limit to the number of estuarine sanctuaries that can be established in each geographic region or state. The original limit of one sanctuary for each biogeographic region or major subcategory is limiting to the extent that opportunities for research and education programs relating to the coastal zone may be foregone because of a lack of federal assistance. The appropriation of sanctuary funds each federal year constitutes an existing Congressional control over the program.

2. A classification system study, on a national scale, of different estuarine types should be initiated. This would identify the diversity between estuarines, provide a system for protecting estuarine areas, and provide maximum benefits for coastal zone management.

3. That NOAA-OCZM explore the feasibility of establishing estuarine sanctuaries without the use of acquisition funds, or with very limited funding requirements. This could be accomplished by incorporating existing public ownership (i.e. wildlife refuges, state parks, state tidelands and wetlands) within the boundaries of an estuarine sanctuary. OCZM operational funds could then be used to establish estuarine research, education and recreation programs. This approach would promote estuarine system management plans which would provide substantial benefits to the coastal zone decision making process.

Thank you for your continuing interest and support of the Coastal Zone Management Act and the National Estuarine Sanctuary program.

Yours truly,

WILBUR G. HALLAUER, *Director.*

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